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B I L L S,

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EIGHT VOLUMES.

— (7.) —

PUBLIC EXECUTIONER

TO

SPEECHES IN PARLIAMENT.

Session

21 *February* 1889 — 30 *August* 1889.

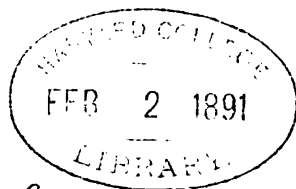
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1889.

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Summer fund.

B I L L S :

1889.

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A

B I L L

TO

Provide for the Appointment of a Public Executioner.

A.D. 1889.

WHEREAS it is expedient to provide for the appointment of fit and proper persons to carry out the sentence of the law in cases of capital punishment, and for the prevention of scandal and maintenance of discipline to place such persons under the
 5 control of one of Her Majesty's Principal Secretaries of State :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

10 1. This Act may be cited for all purposes as the Public Executioners Act, 1889. Short title.

2. The Secretary of State for the Home Department shall from time to time appoint an officer to be called the Public Executioner, together with such assistant officers as he may think necessary, at
 15 such salary or salaries or remuneration as he, with the approval of the Treasury, may think fit, and shall assign and regulate the duties of such Public Executioner or his assistant officers and the cases and manner in which the said duties are to be exercised, and may at any time remove such officer or assistant officers. Appointment and payment of public executioner and assistants.

20 *The salaries or remuneration of such Public Executioner and assistant officers, and the expenses incurred by them or by a Secretary of State in the execution of this Act, shall be paid out of moneys provided by Parliament.*

3. Every Public Executioner or assistant officer appointed under
 25 this Act shall receive a certificate of his appointment from the Secretary of State for the Home Department, and shall be exonerated during the continuance of such appointment from serving in any parochial or municipal office or upon any jury. Certificate of appointment of public executioner and assistant officers.

The Secretary of State for the Home Department may at any
 30 time cancel any certificate granted under this Act, and may order
 [Bill 216.]

A.D. 1889. any certificate to be returned to the Home Office for the purpose of being cancelled.

Penalty for
forging
certificate or
personation.

Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or any certificate which has been cancelled as aforesaid, or personates the officer named in any such certificates, or falsely pretends to be an officer under this Act, or who refuses, or fails, within seven days after having been ordered as aforesaid to do so, to return a certificate to the Home Office, shall be liable to be imprisoned for a period not exceeding *three months* with or without hard labour.

The Secretary of State for the Home Department may make rules with respect to the form of the certificates to be granted under this Act.

Duty of
sheriff as to
execution.

4. From and after the *passing of this Act* no sheriff, under-sheriff, or other person at any time required by law to carry out the execution of a criminal sentenced to death, shall appoint as his deputy to carry out such execution any one not holding a certificate under this Act, except by permission of the Secretary of State for the Home Department.

Commence-
ment of Act.

5. This Act shall come into operation on the *first day of January, one thousand eight hundred and ninety.*

15
20

Public Executioner.

A

BILL

To provide for the Appointment of a
Public Executioner.

(Prepared and brought in by
Sir Edmund Lechmere, Mr. Lockwood,
Mr. Hastings, Mr. Howard Vincent, and
Mr. Paulson.)

*Ordered, by The House of Commons, to be Printed,
10 May 1889.*

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[Under 1 oz. Price, &c.]

[Bill 216.]

A

B I L L

TO

Remove doubts as to the Power of the Local Government Board to make Regulations respecting Cholera. A.D. 1889.

WHEREAS under section fifty-two of the Sanitary Act, 1866, and section one hundred and thirty of the Public Health Act, 1875, the Local Government Board have power to make regulations with a view to the treatment of persons affected with cholera or any other epidemic, endemic, or infectious disease, and preventing the spread of cholera and such other diseases, both on land and water :

And whereas the Local Government Board, Ireland, have like powers :

And whereas doubts have arisen as to the extent of such powers as respects authorities and vessels, and it is expedient to remove such doubts :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Public Health Act, 1889.

This Act, so far as it relates to England, shall be construed as part of section one hundred and thirty of the Public Health Act, 1875, and as regards that part of the county of London to which section fifty-two of the Sanitary Act, 1866, applies, as part of that section.

2. Regulations of the Local Government Board made in relation to cholera and choleraic diarrhoea in pursuance of section one hundred and thirty of the Public Health Act, 1875, or of section fifty-two of the Sanitary Act, 1866, may provide for such regulations being enforced and executed by the officers of Customs as well as by other authorities and officers, and without prejudice to the generality of the powers conferred by the said sections may provide for the detention of vessels and of persons on board vessels, and

[Bill 373.]

Short title and construction.
29 & 30 Vict. c. 90.
38 & 39 Vict. c. 55.

Explanation of powers of Local Government Board to make regulations under 29 & 30 Vict. c. 90. s. 52, and 38 & 39 Vict. c. 55. s. 130.

A.D. 1889 — for the duties to be performed by pilots, masters of vessels, and other persons on board vessels ;

(2.) Provided that the regulations, so far as they apply to the officers of Customs, shall be subject to the consent of the Commissioners of Her Majesty's Customs ;

5

(3.) The officers of Customs, for the purpose of the execution of any powers and duties under the said regulations, may exercise any powers conferred on such officers by any other Act.

Application
to Ireland.
41 & 42 Vict.
c. 52.

3. This Act so far as it applies to Ireland—

(a.) references to section one hundred and thirty of the Public Health Act, 1875, shall be read and construed as references to section one hundred and forty-eight of the Public Health (Ireland) Act, 1878 ;

10

(b.) the expression "Local Government Board" shall mean the Local Government Board for Ireland.

15

Public Health (Cholera Prevention).

A

B I L L

To remove doubts as to the Power of
the Local Government Board to make
Regulations respecting Cholera.

(*Prepared and brought in by
Mr. Ritchie and Mr. Long.*)

*Ordered, by The House of Commons, to be Printed,
12 August 1889.*

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HODGES, FROGGS, & CO., 104, Grafton Street, Dublin.

[*Price 3d.*]

[Bill 378.]

A

B I L L

TO

Confirm a Provisional Order under the Public Health A.D. 1889.
(Scotland) Act, 1867, relating to Kinghorn Water.

WHEREAS Her Majesty's Secretary for Scotland has made the
Provisional Order set forth in the schedule hereunto annexed,
under the provisions of the Public Health (Scotland) Act, 1867 :

And whereas it is necessary that the said Order should be
5 confirmed by Parliament :

Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled, and
by the authority of the same, as follows :

10 1. The Order set out in the schedule hereunto annexed shall
be and the same is hereby confirmed.

2. This Act may be cited as the Kinghorn Water Supply
Confirmation Act, 1889.

A.D. 1889.

*Kinghorn
Water.*

SCHEDULE.

KINGHORN WATER.

Public Health (Scotland) Act, 1867 (30 & 31 Vict. c. 101).

PROVISIONAL ORDER.

WHEREAS by the Public Health (Scotland) Act 1867 it is inter alia enacted 5
(section 89) that with respect to the improvement of burghs having a population
of less than ten thousand according to the census last taken and not having a
local Act for police purposes "the local authority if they think it expedient so to
" do may acquire and provide or arrange for a supply of water for the domestic
" use of the inhabitants and for that purpose may conduct water from any lake 10
" river or stream may dig wells make and maintain reservoirs may purchase
" take upon lease hire construct lay down and maintain such waterworks pipes
" and premises and do and execute all such works matters and things as shall
" be necessary and proper for the aforesaid purpose and may themselves furnish
" a supply of water or contract or arrange with any other person to furnish 15
" the same and for the purposes aforesaid the local authority shall be held to
" have all the powers and rights given to promoters of undertakings by the
" Lands Clauses Acts Provided always that they shall make reasonable
" compensation for the water so taken by them and for the damage which may
" be done to any lands by reason of the exercise of the powers hereby conferred 20
" in terms of the said Acts " and that " the local authority if they have any
" surplus water after fully supplying what is required for domestic purposes may
" supply water from such surplus to any public baths and wash-houses or for
" trading or manufacturing purposes on such terms and conditions as may be
" agreed on between the local authority and the persons desirous of being so 25
" supplied " :

And whereas it is further provided by the said Act (section 90) that upon
compliance with the provisions therein-before contained with respect to advertise-
ments and notices the local authority may present a petition to one of Her
Majesty's Principal Secretaries of State stating the land intended to be taken 30
and the purposes for which it is required and the names of the owners lessees
and occupiers of land who have assented dissented or are neuter in respect of
the taking of such land or who have returned no answer to the notice and
praying that the local authority may with reference to such land be allowed to
put in force the powers of the Lands Clauses Acts with respect to the purchase 35
and taking of land otherwise than by agreement : and that upon the receipt of
such petition and proof of the proper advertisements having been published and
notices served the Secretary of State may direct an inquiry in the district in
which the land is situate or otherwise inquire as to the propriety of assenting to

the prayer of such petition: and after the completion of such inquiry the Secretary of State may by Provisional Order empower the local authority to put in force with reference to the land referred to in such Order the powers of the Lands Clauses Acts with respect to the purchase and taking of land other-

A.D. 1889.

Kinghorn
Water.

5 wise than by agreement or any of them:

And whereas by the Secretary for Scotland Act 1885 all powers and duties vested in or imposed on one of Her Majesty's Principal Secretaries of State by the Public Health (Scotland) Act 1867 and Acts amending the same were transferred to vested in and imposed on the Secretary for Scotland:

10 And whereas the Commissioners of Police of the burgh of Kinghorn in the county of Fife under the General Police and Improvement (Scotland) Act 1862 (herein-after called "the Commissioners") which burgh has a population of less than ten thousand and has no Local Act for police purposes are the local authority within the said burgh under the Public Health (Scotland) Act 1867
15 and Acts amending the same:

And whereas a petition under the provisions of the Public Health (Scotland) Act 1867 has been presented to me by the Commissioners as the local authority aforesaid setting forth among other things that the present water supply to the
20 said burgh is insufficient and impure and had been condemned by the board of supervision who had repeatedly called upon the Commissioners to provide an improved supply and that it was therefore incumbent on the Commissioners to carry out the orders of the said Board and obtain a more abundant and better supply of water for the domestic use of the inhabitants and occupiers of houses and lands within the said burgh and adjoining or near thereto and for public
25 baths and wash-houses and trading or manufacturing purposes: and that for the purpose of affording such supply of water the Commissioners proposed under the provisions of the said Public Health (Scotland) Act 1867 and the Lands Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Consolidation Acts Amendment Act 1860 which two last-mentioned Acts are in this Order termed
30 and referred to as "the Lands Clauses Acts" to purchase and take the lands springs streams waters roads and property delineated and described on the plan herein-after mentioned and which would or might be required to be taken or used for or in connexion with the intended and existing works herein-after described and for providing the aforesaid supply of water and to intercept and
35 divert into the said intended and existing works or some of them the waters of the stream flowing to the south-west of Common Farm Buildings and which stream there forms the boundary between the parishes of Kinghorn and Burntisland and any affluents thereof above the point of commencement of the intended reservoir herein-after described or so much of the said waters as may be required
40 for the said undertaking:

And whereas the intended works herein-before referred to are the following:—

(1.) A reservoir to be situate partly in the parish of Kinghorn and partly in the parish of Burntisland to the south-west of Common Farm Buildings and on the stream which there forms the boundary between the said parishes
45 and on lands adjacent thereto commencing at a point in the said stream four hundred and thirty-five yards or thereabouts and terminating by an embankment to be formed across the said stream at a point therein seventy yards or thereabouts both measured in a westerly direction along its course

[322.]

A 2

A.D. 1889.

*Kinghorn
Water.*

from the point where it is crossed by the cross road from said Common Farm Buildings to Binnend :

- (2.) An aqueduct conduit or line of pipes commencing in the said parish of Burntisland in the said intended reservoir at or near the proposed embankment above described and terminating in the said parish of Kinghorn by a junction with the existing water-pipe now supplying the burgh of Kinghorn with water at a point in the centre of the road running from east to west on the north side of Craigencait Mill opposite that Mill :

Together with such embankments dams sluices weirs gauges filters and filtering beds tanks cisterns cuts road of access and all other works and conveniences connected therewith as may be necessary or convenient for the purposes of the said works and the giving of such supply of water :

And the existing works herein-before referred to are an aqueduct conduit or line of pipes wholly situate in the said parish of Kinghorn commencing at the point of termination before described of the intended aqueduct conduit or line of pipes above described and terminating in the public road leading from Kilrie Gate to the burgh of Kinghorn at the point where that road enters the burgh on the northern side thereof seventy yards or thereabouts measured in a north-westerly direction along the centre of the said road from the junction thereof with the public road leading from Burntisland by Kinghorn Loch to Kirkcaldy :

And whereas the said petition further set forth that the Commissioners had published the advertisements and served the notices required by section 90 of the said Public Health (Scotland) Act 1867 and prayed that a Provisional Order might be made in pursuance of the provisions of that Act empowering the Commissioners to put in force with reference to the lands springs streams waters roads and other property above-mentioned the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement :

And whereas due inquiry having been directed and held in respect of the matters contained in the said petition I have resolved to grant the prayer thereof and a plan and sections of the said intended and existing works above described and also describing the lands springs streams waters roads and other property intended to be taken for the purposes thereof and of the said water supply and a book of reference to such plan containing the names of the owners or reputed owners lessees or reputed lessees and occupiers of such lands springs streams waters roads and other property have been signed by me with reference to this Order and have been deposited with the sheriff clerk of the county of Fife at his office in Cupar :

Now therefore in pursuance of the powers contained in the Public Health (Scotland) Act 1867 and transferred to and vested in me by the Secretary for Scotland Act 1885 I as the Secretary for Scotland do by this Provisional Order under my hand and seal direct that from and after the passing of an Act of Parliament confirming the same :—

Commissioners
may put in
force powers of
Lands Clauses
Acts.

1. It shall be lawful for the Commissioners as the local authority aforesaid to put in force with reference to the lands springs streams waters roads and other property delineated on the said plan and described in the said book of reference the powers of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

2. In constructing the intended works herein-before and on the said plan described the Commissioners may deviate laterally from the lines laid down on the said plan to any extent not exceeding the limits of lateral deviation shown thereon and may deviate vertically from the levels of the said works as defined
5 on the said sections to any extent not exceeding five feet upwards and five feet downwards Provided always that they shall not in the exercise of the power of lateral deviation hereby given construct any embankment or retaining wall of the réservoir hereby authorised of a greater height above the general surface of the ground than that shown on the said sections and five feet in addition Provided
10 also that if they shall exercise the powers of vertical deviation hereby granted they shall construct such embankment of such additional thickness at the base as shall be equal to five feet for every foot of additional height and shall make a corresponding addition to the strength of any retaining wall Provided also that they may erect any water tower stand pipe or other like work of any height
15 which for the time being may be necessary or proper for the purposes of this Order.

A.D. 1889.
—
*Kinghorn
Water.*
Powers of
lateral and ver-
tical deviation.

3. The Commissioners may in the execution of the aforesaid intended works herein-before described take wayleaves easements servitudes or other limited rights over lands and other property subject to such conditions as may be agreed
20 on with the persons interested.

Power to take
wayleaves &c.

4.—(1.) The Commissioners shall not under the powers of this Order purchase or acquire in any district within the meaning of the Public Health (Scotland) Act 1867 ten or more houses which after the passing of an Act of Parliament confirming this Order have been or on the fifteenth day of December last were
25 occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers unless and until the Commissioners—

Restriction on
taking houses
of labouring
class.

(A.) Shall have obtained the approval of the Secretary for Scotland to a scheme for providing new dwellings for such number of persons as were residing in such houses on the fifteenth day of December aforesaid or for such number
30 of persons as the Secretary for Scotland shall after inquiry deem necessary having regard to the number of persons on or after that date residing in such houses and working within one mile therefrom and to the amount of vacant suitable accommodation in the immediate neighbourhood of such houses or to the place of employment of such persons and to all the circum-
35 stances of the case and

(B.) Shall have given security to the satisfaction of the Secretary for Scotland for the carrying out of the scheme.

(2.) The approval of the Secretary for Scotland to any scheme under this section may be given either absolutely or conditionally and after the Secretary
40 for Scotland has approved of any such scheme he may from time to time approve either absolutely or conditionally of any modification in the scheme.

(3.) Every scheme under this section shall contain provisions prescribing the time within which it shall be carried out and shall require the new dwellings proposed to be provided under the scheme to be completed fit for occupation
45 before the persons residing in the houses in respect of which the scheme is made are displaced :

Provided that the Secretary for Scotland may dispense with the last-mentioned requirement subject to such conditions (if any) as he may see fit.

A.D. 1889.

*Kinghorn
Water.*

(4.) Any conditions subject to which the Secretary for Scotland may have approved of any scheme under this section or of any modifications of any scheme or subject to which he may have dispensed with the above-mentioned requirement shall be enforceable by an order of the Court of Session to be obtained by the Secretary for Scotland.

5

(5.) If the Commissioners acquire or appropriate any house or houses under the powers of this Order in contravention of the foregoing provisions or displace or cause to be displaced the persons residing in any house or houses in contravention of the requirements of the scheme they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court of Session may if they think fit reduce such penalty.

10

(6.) For the purpose of carrying out any scheme under this section the Commissioners may appropriate any lands for the time being belonging to them or which they have power to acquire and may purchase such further lands as they may require and for the purpose of any such purchase section 90 of the Public Health (Scotland) Act 1867 shall be incorporated with this Order and shall apply to the purchase of lands by the Commissioners for the purposes of any scheme under this section in the same manner in all respects as if the scheme were one of the purposes of that Act.

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(7.) The Commissioners may on any lands belonging to them or purchased or acquired under this section or any Provisional Order issued in pursuance of this section erect such dwellings for persons of the labouring class as may be necessary for the purpose of any scheme under this section and may sell demise or let or otherwise dispose of such dwellings and any lands purchased or acquired as aforesaid and may apply for the purposes of this section to which capital is properly applicable or any of such purposes any moneys belonging to them or which they may be authorised to raise or apply in connexion with affording the supply of water aforesaid :

25

30

Provided that all lands on which any buildings have been erected or provided by the Commissioners in pursuance of any scheme under this section shall for a period of twenty-five years from the passing of the Act confirming this Order be appropriated for the purpose of dwellings and every conveyance demise or lease of such lands and buildings shall be endorsed with notice of this enactment :

35

Provided also that the Secretary for Scotland may at any time dispense with all or any of the requirements of this sub-section subject to such conditions if any as he may see fit.

(8.) The Secretary for Scotland may direct any inquiries to be held which he may deem necessary in relation to any scheme under this section and for giving effect to any of the provisions of this section and he and any person appointed by him to hold inquiry shall have and may exercise for any purpose in connexion with any scheme under this section all or any of the powers vested in them respectively under the Public Health (Scotland) Act 1867 in the same manner in every respect as if the preparation and carrying into effect of such scheme were one of the general purposes of that Act.

40

45

(9.) The Commissioners shall pay to the Secretary for Scotland a sum to be fixed by him in respect of the preparation and issue of any Provisional Order in

pursuance of this section and any expenses incurred by him in relation to any inquiries under this section including the expenses of any witnesses summoned by the person appointed to hold any inquiry and a reasonable sum to be fixed by the Secretary for Scotland not exceeding three guineas a day for the services of
5 the person so appointed.

A.D. 1889.

*Kinghorn
Water.*

(10.) For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and
10 persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

5. For the protection of the Burntisland Oil Company Limited (herein-after called "the company") and their successors in the lands of Binnend the
15 following provisions shall have effect (that is to say) :—

For protection
of the Burnt-
island Oil Com-
pany Limited
and their suc-
cessors in the
lands of
Binnend.

(1.) The Commissioners shall not be entitled to any mines of coal ironstone shale or other minerals under any land to be purchased by them from the company except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the said intended works or any
20 of them unless the same shall have been expressly purchased and all such mines excepting as aforesaid shall be deemed to be excepted out of the conveyance of such lands unless they shall have been expressly named therein and conveyed thereby :

(2.) Nothing in this Order contained shall prevent the Commissioners from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines belonging to the company other than such parts thereof as are excepted by the next preceding sub-section by means or in consequence of the said intended works in case the same had not been constructed or maintained by
25 virtue of this Order or the Act of Parliament confirming the same :

(3.) The Commissioners shall at their expense provide erect and in all time coming maintain a stand well or fountain of such description as shall be approved by the company or their successors in the lands of Binnend at some convenient place to be approved by them for the purpose of supplying the inhabitants of Common with water and the Commissioners shall at all
30 times keep the same supplied with water by gravitation from the reservoir of the Commissioners :

(4.) The Commissioners shall provide and maintain in each of the fields belonging to the company through or past which the Common Burn flows a watering trough for cattle fitted with a ball cock and shall keep the same
40 constantly supplied with water from the Commissioners main pipes by means of a three-quarter-inch pipe to each trough :

(5.) Subject to the declaration and provision herein-after mentioned the Commissioners shall allow the company to take from the said intended reservoir by means of a pipe to be laid and maintained by the company at the sight and to the satisfaction of the engineer to the Commissioners from that reservoir to join the pipe laid by the company from Roden Braes to the village of Binnend a supply of water for the primary purposes only of the
45 inhabitants of Binnend not exceeding ten thousand gallons every twenty-

A.D. 1889.

*Kinghorn
Water.*

four hours such supply to be measured and ascertained by a meter to the satisfaction of the Commissioners to be provided and maintained by and at the cost of the company and to be fixed or placed where the Commissioners shall determine and the company shall annually pay to the Commissioners for and in respect of such supply a sum equal to the interest at and after 5 the rate of four per centum per annum on the portion of the expense of constructing and completing the said intended reservoir corresponding to the said quantity of ten thousand gallons of water which may be so taken by the company under this sub-section in proportion to the portion of such expense effecting to the average annual quantity of water supplied from the 10 said reservoir to the burgh of Kinghorn Declaring and providing that in the event of there being at any time a scarcity of water rendering it necessary for the Commissioners to limit and restrict the outflow of water from the said intended reservoir the before-mentioned supply of water to the village of Binnend shall suffer diminution rateably with the supply to the 15 burgh of Kinghorn :

- (6.) In the event of the existing agreement relating to a supply of water to the company from Roden Braes Burn entered into between the magistrates and town council of the burgh of Kinghorn with the consents of the 20 owners of certain mills situate on the said streams on the one part and the company on the other part dated the twelfth thirteenth and fourteenth days of March one thousand eight hundred and eighty-five being cancelled or otherwise terminated by any voluntary act of the said magistrates and town council the annual payment provided by the next preceding sub- 25 section to be made by the company to the Commissioners for and in respect of the supply of water thereby provided for shall from and after the date of such cancellation or termination cease and determine.

Provisions of
Waterworks
Clauses Act
1863 incorpo-
rated.

Interpretation.

6. The provisions of the Waterworks Clauses Act 1863 with respect to the security of the reservoirs constructed by the undertakers are hereby incor- 30 porated with this Order.

7. The expression "the special Act" in the Lands Clauses Acts and in the provisions of the Waterworks Clauses Act 1863 incorporated herewith shall mean and include this Order and the expression "the promoters of the under- 35 taking" in the Lands Clauses Acts shall with reference to this Order mean the Commissioners as the local authority within the said burgh of Kinghorn under the Public Health (Scotland) Act 1867 and the word "lands" in this Order shall have the meaning assigned to it in the Lands Clauses Acts and shall include water and the right thereto.

Given under my hand and seal at Whitehall this fifth day of July one thousand eight hundred and eighty-nine. 40

(L.S.)

LOTHIAN.

Public Health (Scotland) Provisional Order (Kinghorn Water).

A

B I I, L

To confirm a Provisional Order under
the Public Health (Scotland) Act,
1867, relating to Kinghorn Water.

(*Prepared and brought in by
The Lord Advocate and Mr. Solicitor-General
for Scotland.*)

*Ordered, by The House of Commons, to be Printed,
10 July 1889.*

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[*Price 1½d.*]

[Bill 322.]

A

B I L L

INTITULED

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, relating to Leven Water. A.D. 1889.

WHEREAS Her Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed, under the provisions of the Public Health (Scotland) Act, 1867, and Acts amending the same: 30 & 31 Vict. c. 101.

5 And whereas it is necessary that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and 10 by the authority of the same, as follows:

1. The Order set out in the schedule hereunto annexed shall be and the same is hereby confirmed.

2. This Act may be cited as the Leven Water Supply Confirmation Act, 1889.

A.D. 1889.

*Leven
Water.*

SCHEDULE.

LEVEN WATER.

Public Health (Scotland) Act, 1867 (30 & 31 Vict. c. 101.)

Provisional Order.

WHEREAS by the Public Health (Scotland) Act, 1867, it is inter alia 5
enacted (section 89) that with respect to the improvement of Burghs having
a population of less than ten thousand according to the census last taken,
and not having a local Act for police purposes, "the local authority if they
" think it expedient so to do, may acquire, and provide, or arrange for a supply
" of water for the domestic use of the inhabitants, and for that purpose may 10
" conduct water from any lake, river, or stream, may dig wells, make and
" maintain reservoirs, may purchase, take upon lease, hire, construct, lay down,
" and maintain such waterworks, pipes, and premises, and do and execute all
" such works, matters, and things as shall be necessary and proper for the
" aforesaid purpose, and may themselves furnish a supply of water, or contract, 15
" or arrange with any other person to furnish the same, and for the purposes
" aforesaid the local authority shall be held to have all the powers and rights
" given to promoters of undertakings by the Lands Clauses Acts: Provided
" always that they shall make reasonable compensation for the water so taken
" by them, and for the damage which may be done to any lands by reason of 20
" the exercise of the powers hereby conferred in terms of the said Acts" and
that "the local authority if they have any surplus water after fully supplying
" what is required for domestic purposes, may supply water from such surplus
" to any public baths and washhouses, or for trading or manufacturing purposes,
" on such terms and conditions as may be agreed on between the local authority 25
" and the persons desirous of being so supplied:"

And whereas it is further provided by the said Act (section 90) that upon
compliance with the provisions therein-before contained with respect to advertise-
ments and notices, the local authority may present a petition to one of Her 30
Majesty's Principal Secretaries of State, stating the land intended to be taken,
and the purposes for which it is required, and the names of the owners, lessees,
and occupiers of land who have assented, dissented, or are neuter in respect of
the taking of such land, or who have returned no answer to the notice, and
praying that the local authority may with reference to such land be allowed to 35
put in force the powers of the Lands Clauses Acts with respect to the purchase
and taking of land otherwise than by agreement: and that upon the receipt of
such petition and proof of the proper advertisements having been published, and
notices served, the Secretary of State may direct an inquiry in the district in

which the land is situate, or otherwise inquire as to the propriety of assenting to the prayer of such petition; and after the completion of such inquiry, the Secretary of State may by provisional order empower the local authority to put in force with reference to the land referred to in such order, the powers of the

5 Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement, or any of them:

And whereas by the Secretary for Scotland Act, 1885, all powers and duties vested in or imposed on one of Her Majesty's Principal Secretaries of State by the Public Health (Scotland) Act, 1867, and Acts amending the same were

10 transferred to, vested in, and imposed on the Secretary for Scotland:

And whereas the Commissioners of Police of the Burgh of Leven in the county of Fife under the General Police and Improvement (Scotland) Act, 1862 (herein-after called "the Commissioners"), which burgh has a population of less than ten thousand, and has no local Act for police purposes, are the local authority

15 within the said burgh under the Public Health (Scotland) Act, 1867, and Acts amending the same:

And whereas a petition under the provisions of the Public Health (Scotland) Act, 1867, has been presented to me by the Commissioners as the local authority aforesaid, setting forth among other things that the present water supply to the

20 said burgh was insufficient and impure, and that it would be of great local advantage if the Commissioners were authorised to obtain a more abundant and better supply of water for the domestic use of the inhabitants and occupiers of houses and lands in the said burgh and district adjoining or near thereto, and for public baths and washhouses, and trading, manufacturing, and other purposes,

25 and that it would also be expedient were the Commissioners enabled to furnish a supply of water by means of the works herein-after described or some of them, to the inhabitants and occupiers of houses and lands adjoining, or near to any part of the aqueducts, conduits, or lines of pipes herein-after described, for the domestic and other uses of such inhabitants and occupiers, on such terms as may

30 be agreed on between them and the Commissioners, and to the local authority of the parish of Largo for the domestic, trading, manufacturing, and other uses of the inhabitants and occupiers of houses and lands within that parish, on such terms as may be agreed on between such local authority and the Commissioners: and that for the purpose of providing such supplies of water

35 the Commissioners proposed under the provisions of the said Public Health (Scotland) Act, 1867, and the Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, which two last-mentioned Acts are in this order termed and referred to as "the Lands Clauses Acts" to purchase and take the lands, springs, streams, waters, roads, and

40 property delineated and described on the plan herein-after mentioned, or such of them as will or may be required to be taken or used for or in connection with the execution of the following works, and for all purposes necessary for providing the aforesaid supplies of water (that is to say):—

- (1.) A reservoir to be situate on the Hatton Burn and Pratis Burn and on the lands adjacent thereto, commencing at a point in the Hatton Burn, five hundred and fifty yards or thereabouts measured in a northerly direction along the course of that stream from and above the point where it is joined by the Pratis Burn, and at a point in the Pratis Burn, four hundred yards or thereabouts measured in a westerly direction along the course of

[288.]

A 2

A.D. 1889.

*Leven
Water.*

A.D. 1889.

*Leven
Water.*

that stream from and above the said point where it joins the Hatton Burn, and terminating by an embankment to be formed across the Hatton Burn, three hundred yards or thereabouts, measured in a south-easterly direction, measuring along the course of that stream from and below the said point where it is joined by the Pratis Burn, together with a bye-wash channel, commencing at a point in the said Hatton Burn, six hundred yards or thereabouts measured along the course of that stream from and above the point where it is joined by the Pratis Burn, and terminating in the said stream at a point three hundred and ninety yards or thereabouts measured along the course of the said stream from and below the point where it is joined by the Pratis Burn, which intended reservoir, embankment, and bye-wash channel will be wholly situate in the parish of Largo, and in the county of Fife

(2.) An aqueduct, conduit, or line of pipes (conduit No. 1), commencing in the parish of Largo, and county of Fife, in the said intended reservoir at or near the said proposed embankment above described, and terminating at the existing filters of the Leven Police Commissioners in the parish of Scoonie and county of Fife :

(3.) An aqueduct, conduit, or line of pipes (conduit No. 2), commencing in the said intended reservoir at or near the said proposed embankment above described, and terminating in the main street of the Kirkton of Largo at or near the east end thereof, which conduit, No. 2, will be wholly situate in the said parish of Largo :

Together with such embankments, dams, weirs, sluices, gauges, filters, and filtering beds, tanks, cisterns, pipes, cuts, channels, tunnels, and all other works and conveniences connected therewith as may be necessary or convenient for the purposes of said works, and the giving of such supply of water :

and to intercept and divert into the said intended works or some of them, and therein and thereby to impound, convey, and distribute for the purposes aforesaid the waters of the said Hatton Burn and Pratis Burn, and the tributaries and affluents thereof above the point of termination of the said intended reservoir or so much of the said waters as may be required for the said undertaking :

And whereas the said petition further set forth that the Commissioners had published the advertisements, and served the notices required by section 90 of the said Public Health (Scotland) Act, 1867, and prayed that a provisional order might be made in pursuance of the provisions of that Act, empowering the Commissioners to put in force with reference to the lands, springs, streams, waters, roads, and other property above-mentioned the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement :

And whereas due inquiry having been directed and held in respect of the matters contained in the said petition, I have resolved to grant the prayer thereof, and a plan and sections of the said intended works above described, and also describing the lands, springs, streams, waters, roads, and other property intended to be taken for the purposes thereof, and of the said water supply, and a book of reference to such plan, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands, springs, streams,

waters, roads, and other property, have been signed by me with reference to this order, and have been deposited with the sheriff clerk of the county of Fife at his office in Cupar :

A.D. 1889

*Leven
Water.*

48 & 49 Vict.
c. 61.

Now therefore in pursuance of the powers contained in the Public Health
5 (Scotland) Act, 1867, and transferred to, and vested in me by the Secretary for
Scotland Act, 1885, I, as the Secretary for Scotland, do by this provisional
order under my hand and seal direct, that from and after the passing of an Act
of Parliament confirming the same :—

1. It shall be lawful for the Commissioners as the local authority aforesaid to
10 put in force with reference to the lands, springs, streams, waters, roads, and
other property delineated and described on the said plan, and in the said book
of reference, the powers of the Lands Clauses Acts with respect to the purchase
and taking of land otherwise than by agreement.

Commissioners
may put in
force powers
of Lands
Clauses Acts.

2. In constructing the works herein-before and on the said plan described,
15 the Commissioners may deviate laterally from the lines laid down on the said
plan, to any extent not exceeding the limits of lateral deviation shown thereon,
and may deviate vertically from the levels of the said works as defined on the
said sections to any extent not exceeding five feet upwards, and five feet
20 downwards: Provided always, that they shall not, in the exercise of the power of
lateral deviation hereby given, construct any embankment or retaining wall of
the reservoir hereby authorised of a greater height above the general surface of
the ground, than that shown on the said sections, and five feet in addition :
Provided also, that if they shall exercise the powers of vertical deviation hereby
25 granted, they shall construct such embankment of such additional thickness at
the base as shall be equal to five feet for every foot of additional height, and
shall make a corresponding addition to the strength of any retaining wall:
Provided also that they may erect any water-tower, stand-pipe, or other like
work of any height which for the time being may be necessary or proper for the
purposes of this order.

Powers of
lateral and
vertical devia-
tion.

3. The Commissioners may in the execution of the aforesaid works, take
30 wayleaves, easements, servitudes, or other limited rights over lands and other
property subject to such conditions as may be agreed on with the persons
interested.

Power to take
wayleaves, &c.

4. The Commissioners shall not under the powers of this order without the
35 consent of the Secretary for Scotland, purchase or acquire in any district within
the meaning of the Public Health (Scotland) Act, 1867, ten or more houses,
which, after the passing of this order, have been, or on the fifteenth day of
December last were, occupied, either wholly or partially, by persons belonging
to the labouring class as tenants or lodgers.

Restriction
on taking
houses of
labouring
class.

40 For the purposes of this section, the expression "labouring class" means and
includes mechanics, artisans, labourers, and others working for wages, hawkers,
costermongers, persons not working for wages, but working at some trade or
handicraft, without employing others except members of their own family, and
persons other than domestic servants, whose income does not exceed an average
45 of thirty shillings a week, and the families of any of such persons who may be
residing with them.

A.D. 1889.

*Leven
Water.*
Part of Water
Works Clauses
Act, 1863
incorporated.
Interpretation.

6

*Public Health (Scotland) Provisional [52 & 53 VICT.]
Order (Leven Water).*

4a. The provisions of the Water Works Clauses Act, 1863, with respect to the security of the reservoirs constructed by the Undertakers are hereby incorporated with this Order.

5. The expression "the special Act" in the Lands Clauses Acts and in the provisions of the Water Works Clauses Act, 1863, incorporated herewith shall mean, and include this order, and the expression "the Promoters of the Undertaking" in the Lands Clauses Acts shall with reference to this order, mean the Commissioners as the local authority within the said burgh of Leven, under the Public Health (Scotland) Act, 1867, and the word "lands" in this order shall have the meaning assigned to it in the Lands Clauses Acts, and shall include water, and the right thereto.

Given under my hand and seal at Whitehall, this third day of May one thousand eight hundred and eighty-nine.

(L.S.)

LOTHIAN.

**Public Health (Scotland)
Provisional Order
(Leven Water). [H.L.]**

B I L L

INTITLED

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, relating to Leven Water.

(Brought from the Lords 25 June 1889.)

*Ordered, by The House of Commons, to be Printed,
26 June 1889.*

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[Price 1d.]

[Bill 288.]

A

B I L L

INTITULED

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, and Acts amending the same, relating to Linlithgow Water. A.D. 1889.

WHEREAS Her Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Public Health (Scotland) Act, 1867, and Acts amending the same :

- 5 And whereas it is necessary that the said Order should be confirmed by Parliament :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled,
10 and by the authority of the same, as follows :

1. The Order as amended and set out in the schedule hereto annexed shall be and the same is hereby confirmed.

The Order
in schedule
confirmed.

2. This Act may be cited as the Linlithgow Water Supply Confirmation Act, 1889.

Short title.

A.D. 1889.

*Linlithgow
Water.*

SCHEDULE.

LINLITHGOW WATER.

(PUBLIC HEALTH (SCOTLAND) ACT, 1867, AND ACTS AMENDING THE
SAME.)

PROVISIONAL ORDER.

5

WHEREAS by the Public Health (Scotland) Act, 1867, it is, inter alia, enacted, section eighty-nine, that, with respect to the improvement of burghs having a population of less than ten thousand according to the census last taken, and not having a local Act for police purposes, "the Local Authority, if they think it expedient so
" to do, may acquire and provide or arrange for a supply of water for the domestic 10
" use of the inhabitants, and for that purpose may conduct water from any
" lake, river or stream, may dig wells, make and maintain reservoirs, may
" purchase, take upon lease, hire, construct, lay down and maintain such water-
" works, pipes and premises, and do and execute all such works, matters and
" things as shall be necessary and proper for the aforesaid purpose, and may 15
" themselves furnish a supply of water, or contract or arrange with any other
" person to furnish the same; and for the purposes aforesaid the Local Authority shall be held to have all the powers and rights given to promoters of
" undertakings by the Lands Clauses Acts: Provided always, that they shall
" make reasonable compensation for the water so taken by them, and for the 20
" damage which may be done to any lands by reason of the exercise of the
" powers hereby conferred in terms of the said Acts;" And that the Local Authority, if they have any surplus water after fully supplying what is required for domestic purposes, may supply water from such surplus to any public baths and washhouses or for trading or manufacturing purposes, on such terms and 25
conditions as may be agreed on between the Local Authority and the persons desirous of being so supplied.

And whereas it is further provided by the said Act, section ninety, that upon compliance with the provisions therein contained with respect to advertisements and notices, the Local Authority may present to one of Her Majesty's Principal 30
Secretaries of State a petition stating the land intended to be taken and the purposes for which it is required, and the names of the owners, lessees and occupiers of lands who have assented, dissented or are neuter in respect of the taking of such land, or who have returned no answer to the notice, and praying that the Local Authority may, with reference to such land, be allowed to put in 35
force the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement, and that upon the receipt of such petition, and proof of the proper advertisements having been published and notices served, the Secretary of State may direct an inquiry in the district in which the land is situated or otherwise, inquire as to the propriety of assent- 40
ing to the prayer of such petition; and after the completion of such inquiry, the Secretary of State may, by Provisional Order, empower the Local Authority to

put in force, with reference to the land referred to in such Order, the powers of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement or any of them :

A.D. 1889.
*Linlithgow
Water.*

5 And whereas by the Secretary for Scotland Act, 1885, all powers and duties vested or imposed on the said Secretary of State by the Public Health (Scotland) Act, 1867, and Acts amending the same, were transferred to, vested in and imposed on the Secretary for Scotland :

10 And whereas the Police Commissioners of the burgh of Linlithgow, in the parish and county of Linlithgow, acting under the General Police and Improvement (Scotland) Act, 1862, which is in force within the said burgh, are the Local Authority within the said burgh under the said Public Health (Scotland) Act, 1867 (who are herein-after called "the Commissioners"), and which burgh contains less than ten thousand inhabitants, and has no local Act for police purposes :

15 And whereas a petition under the provisions of the Public Health (Scotland) Act, 1867, and the Public Health (Scotland) Amendment Act, 1871, and the Public Health (Scotland) Act (1867) Amendment Act, 1882, has been presented to me, as Secretary for Scotland, by the Commissioners, as the Local Authority aforesaid, setting forth, among other things, that the population of the said
20 burgh of Linlithgow is about four thousand five hundred, and that the present supply of water to the said burgh is insufficient, and that it would be of great advantage to the inhabitants of the said burgh if the petitioners were authorised to obtain an additional supply of water for domestic use of the said inhabitants, and for trading and manufacturing and other purposes, under the provisions of
25 the first-recited Act; and that the petitioners propose to construct works for the purpose of affording such additional supply of water, and to purchase and take, under the powers and provisions of the Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, which Acts are herein termed and referred to as the Lands Clauses Acts, the
30 lands and water required for the purposes of the said water supply and the said works, all which lands, water and works are or will be situate in the parishes of Linlithgow and Torphichen, in the county of Linlithgow, and that the petitioners had published the advertisements and deposited the Plans, Sections and Book of Reference, and served the notices required by the ninetieth section of the first-
35 recited Act ; and the said petition prayed that a Provisional Order might be made, empowering the petitioners to put in force, with reference to the lands and water before-mentioned, the powers of the Lands Clauses Acts, with respect to the purchase and taking of lands otherwise than by agreement :

And whereas due inquiry having been directed and held in respect of the
40 matters mentioned in the said petition, I have resolved to grant the prayer thereof; and a Plan describing the works to be constructed and the lands and water intended to be taken for the purposes thereof and of the said water supply, and a Book of Reference to such Plan, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of such lands and water,
45 have been signed by me with reference to this Order, and will be deposited with the Sheriff Clerk of the county of Linlithgow, at his office in Linlithgow.

Now, therefore, in pursuance of the powers contained in the Public Health (Scotland) Act, 1867, and transferred to and vested in me by the Secretary for Scotland Act, 1885, I, as Secretary for Scotland, do by this Provisional Order

*Public Health (Scotland) Provisional [52 & 53 Vict.]
Order (Linlithgow Water).*

A.D. 1889. under my hand direct that from and after the passing of any Act of Parliament confirming the same:—

*Linlithgow
Water.*

1. The expression "the special Act" in the Lands Clauses Acts and in the provisions of the Water Works Clauses Act, 1863, hereinafter incorporated, shall mean and include this Order; and the expression "the Promoters of the under- 5
taking" in the Lands Clauses Acts shall, with reference to this Order, mean the Commissioners; and the word "lands" in this Order shall have the meaning assigned to it in the Lands Clauses Acts, and shall include water and the right thereto.

2. The provisions of the Water Works Clauses Act, 1863, with respect to the security of the reservoirs constructed by the Undertakers, are hereby 10
incorporated with this Order.

3. The Commissioners may put in force, with reference to the lands and water described on the said Plan, and in the said Book of Reference, the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement. 15

4. The Commissioners in constructing the works described on the said Plan, may deviate laterally from the lines laid down thereon to any extent not exceeding the limits of lateral deviation shown thereon; and may deviate vertically from the levels of the said works, as defined on the sections, to any extent not exceeding five feet upwards and five feet downwards: Provided always that they 20
shall not, in the exercise of the power of lateral deviation hereby given, construct any embankment or retaining wall of the reservoir hereby authorised of a greater height above the general surface of the ground than that shown on the deposited Plans, and five feet in addition. Provided also, that if they shall exercise the powers of vertical deviation hereby granted, they shall construct such embank- 25
ment of such additional thickness at the base as shall be equal to five feet for every foot of additional height and shall make a corresponding addition to the strength of any retaining wall: Provided also that they may erect any water tower, stand pipe, or other light work of any height, which for the time being may be necessary or proper for the purposes of this Order. 30

5. The Commissioners may, in the execution of their works, take way-leaves, easements, servitudes, or other limited rights over lands and other property, subject to such conditions as may be agreed on with the persons interested.

6. Any works to be constructed in laying down, altering, replacing, or repairing any main sewer or branch sewer, aqueduct, conduit, or line of pipes by the 35
Commissioners in the exercise of the powers conferred by this Order upon, across, or under, or in any way affecting any railway or canal belonging to the North British Railway Company or any of the bridges or works thereof, or any lands or property belonging to that Company, shall be done under the superintendence and to the reasonable satisfaction of the principal engineer for the time being of 40
that Company, and according to plans to be reasonably approved by him before any such works are begun, but in all things at the expense of the Commissioners, and so as to cause as little injury as possible to any such railway, canal bridges, banks, works, lands, or property, or interruption to the passage or conduct of traffic over or upon any such railway or canal, and if in consequence of the 45
laying or keeping laid of any main sewer or branch sewer, aqueduct, conduit, or line of pipes authorised by this Order, any injury be caused to any such railway, canal bridges, banks, works, lands, or property, or any interruption be caused to

such traffic, the Commissioners shall make full compensation to the said Company in respect of such injury or interruption, and the amount of such compensation shall be recoverable with full costs from the Commissioners by all and the same means as a simple contract debt is recoverable.

A.D. 1889.

*Linlithgow
Water.*

- 5 7. As full compensation to the lower riparian proprietors for the water of Preston to be abstracted under this Order, the Commissioners shall, during every day of twenty-four hours, provide and send down the Back Burn in the Little Glen of Preston, a preferential supply of thirty-five thousand gallons of water in a continuous and uniform stream. A sufficient gauge or sill, through or over
10 which the said quantity of thirty-five thousand gallons shall be discharged, shall be provided in the said Back Burn in the Little Glen of Preston at a point to be fixed by Patrick Baron Seton, of Preston, and shall be constructed in the mode to be approved of by the said Patrick Baron Seton, and at the sight and to the satisfaction of Alexander Leslie, Civil Engineer, Edinburgh, and the said gauge
15 or sill shall be erected and in all time hereafter maintained in good and efficient order and repair at the expense of the Commissioners who shall also bear the expense of all necessary inspections thereof by the said Alexander Leslie, whom failing, of an engineer to be appointed by the Sheriff of the Lothians and Peebles, or any of his substitutes, and the said gauge or sill shall
20 be open to such inspection and examination only as is provided for in the third article of the Minute of Agreement third mentioned in the next immediately succeeding section of this Order, and subject to the conditions therein contained.

7A. This Order is made and granted subject to the terms and conditions of:—

- 25 First. A Minute of Agreement between the said Commissioners of Police of Linlithgow on the first part, Andrew Francis Craig Gilmour, of Hiltly, on the second part, and Patrick Baron Seton, of Preston, on the third part, dated seventeenth, twentieth, and twenty-fifth days of May one thousand eight hundred and eighty-nine;
- 30 Second. A Minute of Agreement between the said Patrick Baron Seton on the first part, and the said Commissioners of Police on the second part, also dated seventeenth, twentieth, and twenty-fifth days of May one thousand eight hundred and eighty-nine; and
- 35 Third. A Minute of Agreement between Andrew Gilmour, Provost of the said Burgh, as representing the said Commissioners, and the said Andrew Francis Craig Gilmour, on the first part, and William Horn Henderson, as Factor and Commissioner for and on behalf of the said Patrick Baron Seton, on the second part, dated eighteenth May one thousand eight hundred and eighty-nine, and the whole rights, privileges, and interests of
40 the said Patrick Baron Seton, as proprietor of the lands and estate of Preston and Hiltly, which are saved and reserved to him by the said agreements, shall be saved and reserved to him under this Order, and the Commissioners shall not be entitled to put in force any of the provisions of this Order, or of the Lands Clauses Acts, which shall affect the said rights, privileges, and interests of the said Patrick Baron Seton, except in so far as
45 these rights, privileges, and interests have been acquired by the said Commissioners under and in terms of the said Minutes of Agreement.

A.D. 1889.
*Linlithgow
Water.*

8. The Commissioners shall discharge or allow to flow from the Hiltly springs down the Haugh Burn during every day of twenty-four hours a preferential supply of seven thousand gallons of water in a continuous and uniform stream as compensation for the appropriating by them of the water from the Hiltly springs. A sufficient gauge shall be provided at the sight and to the satisfaction 5 of the said Alexander Leslie at a point in the lands of Hiltly on the conduit or line of pipes marked on the deposited Plans, "Work No. 6 of Notice" and 400 yards or thereby from the commencement thereof through which the said quantity of seven thousand gallons shall be discharged, which shall be open to the inspection and examination of the several persons interested therein. 10 Further, the Commissioners shall erect a watering trough in the westmost field of Hillhouse and shall give and maintain a supply to such trough at all times sufficient for the watering of cattle or other bestial in said field.

8A. Nothing contained in this Order or in the Act confirming the same shall prejudice or affect the rights and interests of William Horn Henderson, of 15 Nether Parkley, Linlithgow, in a lease entered into between Patrick Baron Seton, of Preston, and him, dated twenty-eighth March and third April, one thousand eight hundred and eighty-nine, whereby the said Patrick Baron Seton let to the said William Horn Henderson for ninety-nine years from Whit Sunday, one thousand eight hundred and eighty-seven, the springs situated in 20 the Upper Glen Plantation of Preston, with right to lead the same to Nether Parkley (subject always to the rights of Thomas Ford to take a certain amount of the water thereof to his house at Rivalsgreen), and also the said William Horn Henderson's right and interest in the said springs, and in the tanks, 25 cisterns, pipes, and other appliances for storing of the said water, and for carrying the same from the said springs to the house of Nether Parkley; and the said Commissioners shall not be entitled to put in force any of the provisions of this Order, or of the Lands Clauses Acts, which shall affect the said rights and interests of the said William Horn Henderson.

9. The Commissioners shall be bound to save and reserve always and leave 30 unaffected the whole right and interest of Thomas Ford of Rivalsgreen in a long lease entered into between Patrick Baron Seton of Preston and him dated 15th September and 9th October 1886, and the spring situated in the Upper Glen Plantation of Preston thereby let to the said Thomas Ford for 99 years from Whit-Sunday 1887, and the tanks, cisterns, pipes and other appliances 35 used in carrying the water supply from the said spring to the house of Rivalsgreen, and the said Commissioners shall not impede in any way the powers of the said Thomas Ford of making and maintaining the said appliances, and they shall not be entitled to put in force any of the provisions of this Provisional Order or of the Lands Clauses Acts which shall affect the said rights 40 and interests of the said Thomas Ford.

9A. This Order is further made and granted subject to the terms of a Minute of Agreement between the Linlithgow District Committee of the County Road Trustees of the county of Linlithgow on the first part, and the said Police Commissioners on the second part, signed by the said Police Commissioners 45 on the eighth day of July, one thousand eight hundred and eighty-nine, and the Commissioners shall not be entitled to put in force any of the provisions

of this Order, or of the Lands Clauses Acts which shall affect the rights and interests of the said County Road Trustees, except in accordance with the terms of the said Minute of Agreement.

A.D. 1889.
*Linlithgow
Water.*

10. The Commissioners shall not under the powers of this Order, without the consent of the Secretary for Scotland, purchase or acquire in any district within the meaning of the Public Health (Scotland) Act, 1867, ten or more houses which, after the passing of the Act confirming this Order, have been, or on the fifteenth day of December last were, occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.
- 10 For the purposes of this section the expression "labouring class" includes mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons other than domestic servants whose income does not exceed an average of thirty shillings a week, and the families of any such persons who may be residing with them.
- 15

Given under my hand and seal at Whitehall this twentieth day of June one thousand eight hundred and eighty-nine.

LOTHIAN.

**Public Health (Scotland) Provisional Order
(Linthgow Water).
[H.L.]**

A

B I L L

INTITLED

An Act to confirm a Provisional Order
under the Public Health (Scotland)
Act, 1867, and Acts amending the
same, relating to Linthgow Water.

(Brought from the Lords 29 July 1889.)

*Ordered, by The House of Commons, to be Printed,
29 July 1889.*

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[Price 1d.]

[Bill 357.]

A

B I L L

INTITULED

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, and Acts amending the same, relating to Motherwell Water. A.D. 1889.

WHEREAS Her Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed, under the provisions of the Public Health (Scotland) Act, 1867, and Acts amending the same: 30 & 31 Vict. c. 101.

5 And whereas it is necessary that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and 10 by the authority of the same, as follows:

1. The Order set out in the schedule hereunto annexed shall be and the same is hereby confirmed.

2. This Act may be cited as the Motherwell Water Supply Confirmation Act, 1889.

A.D. 1889.

Motherwell.

SCHEDULE.

MOTHERWELL WATER.

*Public Health (Scotland) Act, 1867, and Acts amending the
same.*

PROVISIONAL ORDER.

5

WHEREAS by the Public Health (Scotland) Act, 1867, it is enacted, section
eighty-eight, that “with respect to burghs having a population of ten thousand
“or upwards, according to the census last taken, or having a local Act for
“police purposes, it shall be lawful for the local authority, if they think it
“expedient so to do, to contract or arrange with any water company 10
“established by Act of Parliament for a supply of water; or where there
“is no such company, themselves to provide a supply of water to such
“extent as may be necessary for the sanitary and other public purposes of this
“Act”:

Whereas by the said Act it is, inter alia, enacted, section eighty-nine, that, 15
with respect to the improvement of burghs having a population of less than ten
thousand according to the census last taken, and not having a local Act for
police purposes, “the local authority, if they think it expedient so to do,” may
acquire and provide or arrange for a supply of water for “the domestic use of
“the inhabitants, and for that purpose may conduct water from any lake, river, 20
“or stream, may dig wells, make and maintain reservoirs, may purchase, take
“upon lease, hire, construct, lay down, and maintain such waterworks, pipes,
“and premises, and do and execute all such works, matters and things as shall
“be necessary and proper for the aforesaid purpose, and may themselves furnish
“a supply of water, or contract or arrange with any other person to furnish the 25
“same; and for the purposes aforesaid the local authority shall be held to have
“all the powers and rights given to promoters of undertakings by the Lands
“Clauses Acts: Provided always, that they shall make reasonable compensation
“for the water so taken by them, and for the damage which may be done to
“any lands by reason of the exercise of the powers hereby conferred, in terms 30
“of the said Acts”:

And whereas, by the Public Health (Scotland) Amendment Act, 1871, section
one, it is provided:—“That when the local Act for police purposes of any burgh
“does not make suitable and sufficient provision for a supply of water for the
“domestic use of the inhabitants, or does not authorise an assessment to be 35
“levied for that purpose (as to which questions the decision of the sheriff on a
“requisition made to him by ten inhabitants shall be final) then such burgh
“shall be held to come under the provisions contained in sections eighty-nine

“ and ninety-four of the said first recited Act,” (the Public Health (Scotland) Act, 1867), “and not under those contained in sections eighty-eight and ninety-five of the said Act.”

A.D. 1889.
Motherwell

And whereas it is further provided by the said first-recited Act, section
5 ninety, that upon compliance with the provisions therein contained with respect
to advertisements and notices, the local authority may present to one of Her
Majesty's Principal Secretaries of State a petition stating the land intended to
be taken, and the purposes for which it is required, and the names of the
owners, lessees, and occupiers of lands who have assented, dissented, or are
10 neuter in respect of the taking of such lands, or who have returned no answer
to the notice, and praying that the local authority may, with reference to such
land, be allowed to put in force the powers of the Lands Clauses Acts with
respect to the purchase and taking of land otherwise than by agreement, and
that upon the receipt of such petition, and proof of the proper advertisements
15 having been published, and notices served, the Secretary of State may direct
an inquiry in the district in which the land is situate, or otherwise inquire as
to the propriety of assenting to the prayer of such petition; and, after the com-
pletion of such inquiry, the Secretary of State may, by Provisional Order,
empower the local authority to put in force, with reference to the land referred
20 to in such Order, the powers of the Lands Clauses Acts with respect to the
purchase and taking of land otherwise than by agreement, or any of them :

And whereas by the Secretary for Scotland Act, 1885, all powers and duties
vested in or imposed on the said Secretary of State by the Public Health
(Scotland) Act, 1867, and Acts amending the same were transferred to, vested
25 in, and imposed on the Secretary for Scotland :

And whereas the Police Commissioners of the burgh of Motherwell, in the
parishes of Dalzell and Hamilton, and county of Lanark, acting under the General
Police and Improvement (Scotland) Act, 1862, which is in force within the said
burgh are the local authority within the said burgh under the said Public Health
30 (Scotland) Act, 1867 (and who are herein-after called “ the Commissioners ”),
and which burgh has no local Act for police purposes :

And whereas a petition under the provisions of the Public Health
(Scotland) Act, 1867, and the Public Health (Scotland) Amendment Act,
1871, and the Public Health (Scotland) Act, 1867, Amendment Act, 1882,
35 has been presented to me, as Secretary for Scotland, by the Commissioners, as
the local authority aforesaid, setting forth, among other things, that the peti-
tioners in 1877 introduced a supply of water into the burgh of Motherwell, and
that the population of the said burgh has since then greatly increased, and now
numbers about 17,698, and that the industries within the burgh have also largely
40 increased, and it has become a large centre of trade and manufacture, and
largely consists of an industrial population, and that the supply of water to the
said burgh has for several years proved inadequate to its necessities and require-
ments, and that it would be of great advantage to the inhabitants of the said
burgh if the petitioners were authorised to obtain an additional supply of water
45 for the domestic use of the said inhabitants, and for trading and manufacturing
and other purposes, under the provisions of the said Public Health (Scotland)
Act, 1867, and Acts amending the same ; and that the petitioners proposed to
construct works for the purpose of affording such supply of water, and to purchase
and take, under the powers and provisions of the Lands Clauses Consolidation

*Public Health (Scotland) Provisional [52 & 53 VICT.]
Order (Motherwell Water).*

A.D. 1889. (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, which Acts are herein termed and referred to as "The Lands Clauses Acts," the lands and water required for the purposes of the said water supply and the said works, all which lands, water and works are or will be situate in the parishes of Carluke and Carstairs, and county of Lanark, and that the petitioners **5** had published the advertisements and deposited the plans, sections, and book of reference, and served the notices required by the ninetieth section of the first-recited Act; and the said petition prayed that a Provisional Order might be made empowering the petitioners to put in force, with reference to the lands and water before-mentioned, the powers of the Lands Clauses Acts with respect to **10** the purchase and taking of lands otherwise than by agreement:

Motherwell.

And whereas due inquiry having been directed and held in respect of the matters mentioned in the said petition, I have resolved to grant the prayer thereof, and a plan, describing the works to be constructed and the lands and waters intended to be taken for the purposes thereof and of the said water **15** supply, and a book of reference to such plan, containing the names of the owners or reputed owners, leasees or reputed leasees, and occupiers of such lands and water, have been signed by me with reference to this Order, and will be deposited with the sheriff clerk of the county of Lanark, at his office in Lanark: **20**

Now, therefore, in pursuance of the powers contained in the Public Health (Scotland) Act, 1867, and transferred to and vested in me by the Secretary for Scotland Act, 1885, I, as Secretary for Scotland, do by this Provisional Order under my hand direct that from and after the passing of any Act of Parliament confirming the same— **25**

1. The expression "the special Act" in the Lands Clauses Acts, and in the provisions of the Water Works Clauses Act, 1863, herein-after incorporated, shall mean and include this Order; and the expression "the promoters of the undertaking" in the Lands Clauses Acts shall, with reference to this Order, mean the Commissioners; and the word "lands" in this Order shall have **30** the meaning assigned to it in the Lands Clauses Acts, and shall include water and the right thereto.

2. The provisions of the Water Works Clauses Act, 1863, with respect to the security of the reservoirs constructed by the Undertakers are hereby incorporated with this Order. **35**

3. The Commissioners may put in force, with reference to the lands and water described on the said plan and in the said book of reference, the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

4. The Commissioners, in constructing the works described on the said plan, **40** may deviate laterally from the lines laid down thereon to any extent not exceeding the limits of lateral deviation shown thereon; and may deviate vertically from the levels of the said works, as defined on the sections, to any extent not exceeding five feet upwards, and five feet downwards: Provided always, that they shall not, in the exercise of the power of lateral deviation **45** hereby given, construct any embankment or retaining wall of the reservoir hereby authorised of a greater height above the general surface of the ground

than that shown on the deposited plan and five feet in addition : Provided also, A.D. 1889.
that if they shall exercise the powers of vertical deviation hereby granted, they Motherwell.
shall construct such embankment of such additional thickness at the base as

5 shall be equal to five feet for every foot of additional height and shall make a
corresponding addition to the strength of any retaining wall : Provided also that
they may erect any water tower, stand pipe, or other light work of any height,
which for the time being may be necessary or proper for the purposes of this
Order.

5. The Commissioners may, in the execution of their works, take way-leaves
10 easements, servitudes, or other limited rights over lands and other property,
subject to such conditions as may be agreed on with the persons interested.

6. The Commissioners shall not, under the powers of this Order, without the
consent of the Secretary for Scotland, purchase or acquire in any district within
the meaning of the Public Health (Scotland) Act, 1867, ten or more houses,
15 which, after the passing of the Act confirming this Order, have been, or on the
fifteenth day of December last were, occupied either wholly or partially by
persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring class" includes
mechanics, artisans, labourers, and others working for wages, hawkers, coster-
20 mongers, persons not working for wages but working at some trade or handicraft
without employing others except members of their own family, and persons other
than domestic servants whose income does not exceed an average of thirty
shillings a week, and the families of any such persons who may be residing with
them.

25 Given under my hand and seal at Whitehall, this eighth day of April, one
thousand eight hundred and eighty-nine.

L.S.

LOTHIAN.

**Public Health (Scotland)
Provisional Order
(Motherwell Water).
[H.L.]**

B I L L

INTITULÉ

An Act to confirm a Provisional Order under the Public Health (Scotland) Act, 1867, and Acts amending the same, relating to Motherwell Water.

(Brought from the Lords 25 June 1889.)

*Ordered, by The House of Commons, to be Printed,
26 June 1889.*

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[Price 1d.]

[Bill 289.]

A
B I L L

TO

Amend the Public Houses, Hours of Closing (Scotland) Act, 1887. A.D. 1889.

WHEREAS it is expedient to amend the Public Houses, Hours of Closing (Scotland) Act, 1887 :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and
5 Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. In section ten of the Public Houses, Hours of Closing (Scotland) Act, 1887, the words "and shall not apply to any burgh,
" town, or populous place containing fifty thousand inhabitants
10 " and upwards" and the schedule to the said Act shall be and are hereby repealed.

Repeal of part of section 10 and of the schedule of 50 & 51 Vict. c. 38.

2. In section four, sub-section c., of the Public Houses, Hours of Closing (Scotland) Act, 1887, the words enacted to be inserted in the "certificate for dealers in exciseable liquors and grocers and
15 provision dealers trading in exciseable liquors," and of certificates for table-beer licenses, shall be amended by the insertion of the words "keep open house or" between the words "and do not" and the words "traffic or in or give out therefrom any liquors
" before eight of the clock in the morning, or after such hour at
20 " night of any day not earlier than ten and not later than eleven " as the licensing authority may direct," ordered in the said sub-section to be inserted in the said certificates.

Grocers, &c. not to keep open house after pre-scribed hours.

3. This Act may be cited for all purposes as the Public Houses, Hours of Closing (Scotland) Act, 1887, Amendment Act, 1889. Short title.

[Bill 148.]

Public Houses, Hours of Closing (Scotland).

A

B I L L

To amend the Public Houses, Hours of
Closing (Scotland) Act, 1887.

*(Prepared and brought in by
Dr. Cameron, Mr. McLagan, Mr. Caldwell, and
Mr. Angus Sutherland.)*

*Ordered, by The House of Commons, to be Printed,
6 March 1889.*

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[Under 1 oz. Price $\frac{1}{2}$ d.]

[Bill 148.]

A
B I L L

TO

Amend the Public Libraries Act, 1855.

A.D. 1889.

WHEREAS under the provisions of section thirteen of the Public Libraries Act, 1855, unnecessary expense is incurred in obtaining the moneys to defray the expenses in the said section mentioned in cases where the Public Libraries (England) Acts, 5 1855 to 1887, are adopted in a parish; and it is therefore expedient to amend the said Act of 1855:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and 10 by the authority of the same, as follows:

1. Section thirteen of the Public Libraries Act, 1855, shall be repealed and in place thereof the following provisions shall have effect.

Repeal of
s. 13, and
provisions in
lieu thereof.

The expenses of calling and holding the meeting of the rate-
15 payers, whether the Public Libraries Acts shall be adopted or not, and the expenses of carrying those Acts into execution in any parish, to such amount as shall be from time to time sanctioned by the vestry, shall be paid out of a rate to be raised with and as part of the poor rate; provided that every person assessed to such rate
20 in respect of lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens, or nursery grounds, shall be entitled to an allowance of two-thirds of the sum assessed upon him in respect of such lands for such expenses; the vestry to be called for the purpose of sanctioning the amount shall be convened in the manner
25 usual in the parish; and the amount for the time being proposed to be raised for such expenses shall be expressed in the notice convening the vestry, and shall be paid according to the order of the vestry, to such person as shall be appointed by the Commissioners to receive the same: Provided also, that in the notices requiring the
30 payment of the rate there shall be stated the proportion which the

[Bill 82.]

A.D. 1889. — amount to be thereby raised for the purposes of this Act shall bear to the total amount of the rate.

Proviso as to
rate made
before pass-
ing of this
Act.

2. Nothing in this Act shall be deemed to invalidate any rate made prior to the *passing thereof*, and any expenses to which section thirteen of the Public Libraries Act, 1855, applied may be 5 paid out of any such rate as if this Act had not passed.

Short title.

3. This Act may be cited as the Public Libraries Act, 1855, Amendment Act, 1889.

**Public Libraries Act
(1855) Amendment.**

A

B I L L

To amend the Public Libraries Act,
1855.

*(Prepared and brought in by
Mr. Herbert Gardner, Mr. Sydney Buxton,
Mr. Arthur Atland, and Sir Lewis Pelly.)*

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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[Under 1 oz. Price ½d.]

[Bill 82.]

Public Libraries Acts Amendment Bill.

MEMORANDUM.

The objects of this Bill are as follows :

1. It substitutes the county and borough electorate as established by the County Electors Act, 1888, and the Municipal Corporations Act, 1882, for the electorate of ratepayers to whom the power of adopting the Libraries Acts is given by the Act of 1855.

Under the Act of 1855, (a) the voters in boroughs were the burgesses, but this provision seems to be extended by the Act of 1877 (s. 3), which defines "ratepayer" as "every inhabitant who " would have to pay the free library assessment in event of the Act " being adopted "; (b) in parishes the voters under the Act of 1855 are the ratepayers, but in parishes of not more than 8,000 inhabitants, Sturgess Bourne's Act (58 Geo. 3. c. 68) applies, giving a graduated number of votes up to six, according to assessment to the poor rate ; (c) in the local board districts, the persons assessed to and paying the local rate are the voters.

The substitution of the borough and county franchise for these varying qualifications is intended not only to carry out the policy of the Local Government Act, 1888, so far as relates to the unifying of local franchises, but also to provide an authoritative list of the voters for the purposes, whether of the public meeting or of the distribution, collection, and scrutiny of the voting papers.

2. The Bill provides that where the district for which the adoption of the Acts is proposed contains a population of 5,000 or more the opinion of the voters shall be taken by voting papers alone, and that the option given by the Act of 1877 of proceeding either by voting papers or by public meeting shall be confined to districts having a population of less than 5,000.

3. The Bill further provides that the Acts may be adopted subject to a condition that the maximum rate shall not exceed one halfpenny or three farthings in the pound, and that these limitations may be wholly removed, or that the halfpenny limitation may be extended to three farthings.

The Act of 1877, which first provided for the maximum rate being fixed at a lower limit than the statutory limit of one penny, left it to each of the voters to stipulate for himself what that lower limit should be.

[Bill 217.]

a

4. Lastly, the Bill provides regulations for ascertaining the opinion of the voters, as well by voting papers as by public meeting, and also provides a form of voting paper.

By the regulations in the schedule, which are to some extent adapted from those provided for Scotland by the Public Libraries Consolidation (Scotland) Act, 1887, it is proposed that the opinion of the majority of those voting shall prevail, and not that a majority of the constituency shall be necessary. Further, in the case of questions being put by voting paper, both as to the adoption of the Acts and also as to a limitation of the rate, it is proposed that the voter may give a valid vote upon either or both of these questions. Thus he may vote "no" as to the adoption of the Act, and "yes" as to limiting the rate to one halfpenny. There will be a separate scrutiny as to each question. It is also proposed that the district authority (the authority charged with the superintendence of the voting) are not to put any question as to limitation of the rate either in the voting paper or to the public meeting, unless some definite question on that point is raised by the requisitionists, when they require the district authority to take the necessary steps for ascertaining the opinion of the voters.

This Bill does not affect any of the provisions of the Bill (No. 82) which has passed the House of Commons during the present session.

A
B I L L

TO

Amend the Public Libraries Acts.

A.D. 1889.

WHEREAS it is expedient that the municipal and county electors franchise should be adopted for the purposes of the Public Libraries (England) Acts :

And whereas it is expedient that further and better provision
5 should be made with respect to the limitation of the rate to be levied in library districts, and with respect to the procedure to be adopted for ascertaining the opinion of the voters, as well by public meeting as by voting papers :

Be it therefore enacted by the Queen's most Excellent Majesty,
10 by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. The persons who shall be voters for all purposes of the Libraries Acts shall be— Who shall be voters.

15 (a.) Where the library district, as defined by this Act, is a borough or part of a borough, the burgesses of that borough, and the burgesses enrolled in respect of qualifications in such part, respectively ; and

20 (b.) Elsewhere, the county electors registered in respect of qualifications in the library district.

All references in the Libraries Acts to ratepayers or persons assessed to and paying any rate shall be construed with respect to any library district as references to the voters mentioned in this section.

2.—(1.) The procedure for ascertaining the opinion of the voters
25 for any purpose of the Libraries Acts shall in the following cases be by voting papers and not otherwise ; that is to say, Amendment of law as to ascertaining opinion of voters.

(a.) In any library district which has a population, according to the last preceding census for the time being, of five thousand or more ; and

[Bill 217.]

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A.D. 1889.

(b.) In any library district which has a less population than is above mentioned, if the district authority as defined by this Act consider the mode of proceeding by public meeting to be inexpedient.

(2.) Where at a public meeting convened under the Libraries Acts as amended by this Act a poll is demanded, such poll shall be taken by voting papers according to the provisions of this Act.

(3.) Any requisition under the Libraries Acts (which for the purposes of this Act includes a request of a town council) shall be addressed to the district authority requiring them or him to ascertain the opinion of the voters with respect to the question or questions stated in the requisition, and such authority shall proceed to ascertain the opinion of the voters by voting papers or by public meeting according to the provisions of this Act.

Limitations
of rate.

3. The Libraries Acts may be adopted for any library district subject to a condition that the maximum rate to be levied in the district in any one year for the purposes of the said Acts shall not exceed *one halfpenny* or shall not exceed *three farthings* in the pound, and such limitation if fixed at *one halfpenny* may be subsequently raised to *three farthings*, or altogether removed, or where it is for the time being fixed at *three farthings* may be removed, and for the purpose of removing or raising such limitation the like proceedings shall be taken as are required to be taken with respect to the adoption of the Libraries Acts.

Provided that the district authority shall not ascertain the opinion of the voters upon any question with respect to the limitation of the rate unless requested to do so by the requisition, and unless the question is one which the voters are under this section authorised to determine.

Provided also, that nothing in this Act shall be construed to authorise the levy of any rate exceeding *one penny* in the pound for any one year in any library district, except the city of London.

Regulations
for ascer-
taining the
opinion of
the voters.

One year to
expire after
ascertain-
ment of
opinion of
voters.

4. The procedure for ascertaining the opinion of the voters for the purposes of the Libraries Act shall be in accordance with the regulations contained in the First Schedule to this Act.

5. Where the opinion of the voters in any library district is ascertained, either upon the question as to the adoption of the Libraries Acts, or upon the question as to the limitation of the rate, and whether by voting papers or public meeting, or both, no further proceeding shall be taken for ascertaining the opinion of the voters until the expiration of one year at least from the day when the opinion of the voters was last ascertained, that is to say,

the day on which the voting papers were collected, or where the opinion of the voters was ascertained by public meeting only, the day of such meeting. A.D. 1889.

5 **6.** Where the Libraries Acts have been adopted for any library district which comprises any other library district, no proceeding shall be taken for the adoption thereof for such last-mentioned district without the consent of the Local Government Board; but, save as aforesaid, the Libraries Acts may be adopted for any library district. Adoption of principal Act for larger area excludes adoption for smaller area comprised therein.

10 **7.** For the purposes of this Act—

The expression “Libraries Acts” means this Act and the Acts with which this Act is to be construed as one.

15 The expression “library district” means any district for which the Libraries Acts may, subject to the provisions of this Act, be adopted; that is to say, any borough, Improvement Act district, local board district, parish or part of a parish, also any district under the Metropolis Management Act, and the city of London.

20 The expression “district authority” means the body or person whose duty it would have been, but for the passing of this Act, to convene a public meeting in any library district under the Libraries Acts.

The expression “county electors” means the persons registered as county electors under the County Electors Act, 1888.

25 **8.** The enactments specified in the Second Schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned, without prejudice to anything done in pursuance of those enactments. Repeal.

30 **9.** This Act may be cited as the Public Libraries Acts Amendment Act, 1889, and this Act and the Public Libraries (England) Acts, 1855 to 1887, and any Acts amending the same, may be collectively cited as the Public Libraries (England) Acts, 1855 to 1889. Short title and construction.

35 This Act shall be construed as one with the Public Libraries (England) Acts, 1855 to 1887.

10. This Act shall not extend to Scotland or Ireland.

Extent of Act.

A.D. 1889.

SCHEDULES.**FIRST SCHEDULE.****REGULATIONS for ascertaining the opinion of the voters in a library district.**

For the purposes of these regulations the expression "presiding officer" 5 means, in the city of London or any borough, the Lord Mayor, or mayor, or a person appointed by such Lord Mayor or mayor respectively, and elsewhere a person appointed to act as presiding officer by the district authority.

I.—PROCEDURE BY VOTING PAPERS.

1. The district authority shall, before the day appointed for the issuing of the 10 voting papers, provide the presiding officer with a copy of the burgess roll or county register, as the case may be, or of such part or parts thereof as shall contain the names of all the voters in the library district.

2. On the day appointed for issuing the voting papers the presiding officer shall send by post or cause to be delivered to every voter a voting paper in the 15 form contained in Part III. of this schedule or to the like effect.

3. Every voting paper shall bear the number of the voter on the roll or register, as the case may be, and shall contain directions to the voter, in accordance with these regulations, as to the day on which and the hours within which the voting paper is to be collected or sent, and as to the place at which, if sent, it will be 20 received.

4. The district authority shall, before the issue of the voting papers, appoint such a number of competent persons as may be necessary to collect and receive the voting papers and to assist in the scrutiny thereof on such terms and for such remuneration as may be reasonable, and shall also appoint a convenient 25 place within the district at which the voting papers are to be received.

5. Voting papers shall be collected between 8 a.m. and 8 p.m. of the third day after that on which they were issued. Such day is herein-after in these regulations referred to as the polling day, and such last-mentioned hour is herein-after referred to as the "conclusion of the poll." 30

6. A voting paper shall not after collection be delivered up to any person except the presiding officer or a person appointed to receive voting papers.

7. The persons appointed to collect the voting papers shall, either before or as soon as may be after the conclusion of the poll, deliver the voting papers collected by them to the presiding officer or to a person appointed to receive the 35 same.

A.D. 1889.

8. A voting paper may be sent by prepaid post or by hand to the presiding officer at the place appointed by the district authority for the receipt thereof, so that it be received by the presiding officer at such appointed place before the conclusion of the poll. Voting papers, except those collected by persons appointed by the district authority, shall not be received at the appointed place after the conclusion of the poll.

9. Every person appointed to collect voting papers shall be appointed in writing by the district authority, and shall carry such writing with him while employed in the collection, and shall show it to any voter who may require him to do so. If any person so appointed fails to comply with this regulation, or if any unauthorised person fraudulently receives or induces any voter to part with a voting paper, such person shall be guilty of a misdemeanor, and liable, on conviction, to imprisonment for a term not exceeding *six months*, or to a fine not exceeding *twenty pounds*, or to both imprisonment and fine.

10. A voting paper which contains the answer "yes" or "no" to any question put to the voters and is duly signed shall be deemed to be a valid voting paper with respect to that question.

A voting paper shall be deemed to be duly signed if signed by the voter with his full name or ordinary signature.

11. Where any voter is unable to write he may cause his voting paper to be filled up by another person. In such case he shall attach his mark to the voting paper, and such mark shall be attested by such other person, who shall sign his name and append his address thereto. A voting paper to which such mark is attached, and which is duly attested, shall be deemed to be duly signed.

12. Any person fabricating a voting paper, or presenting or returning a fabricated voting paper, knowing that the same does not bear the true answer or signature of the voter to whom it was sent or intended to be sent, shall be guilty of personation, and liable to the penalties of that offence, as provided by the Ballot Act, 1872.

13. The presiding officer shall, as soon as may be after the conclusion of the poll, proceed to a scrutiny of the voting papers, and shall compare the same with his copy of the roll or register, and ascertain how far the voting papers have been duly signed by the voters.

14. A question put to the voters shall be deemed to be answered and determined in the affirmative or negative, according as the majority of valid voting papers returned contain the answer "yes" or "no" to that question.

15. Immediately on the conclusion of the scrutiny the presiding officer shall report to the district authority the number of voters who have voted "yes" and "no" respectively to each question put to them, and the number of voting papers which are invalid.

16. The presiding officer shall seal up in separate packets the valid and invalid voting papers, and shall transmit them, together with his report, to the district authority.

17. Upon receiving the report of the presiding officer the district authority shall, if satisfied of the accuracy of such report, cause the result of the poll to be made public in such manner as they shall think fit.

A.D. 1889.

II.—PROCEDURE BY PUBLIC MEETING.

1. The district authority shall, before the time appointed for the public meeting, provide the presiding officer with a copy of the burgess roll or county register, as the case may be, or of such part or parts thereof as shall contain the names of all the voters in the library district.

5

2. All voters in the library district shall be entitled to be present at the meeting and to vote, and the presiding officer shall take such measures as may be necessary for the exclusion from the meeting of persons who are not voters, or for preventing such persons from voting, and for securing that the votes of such persons, if given, shall not be counted, and if necessary for that purpose he may require that every voter on entering the meeting, or before the votes are recorded, shall enter his name and address on a card to be furnished to him for that purpose, and every person knowingly and falsely representing himself to be a voter for the library district, and as such entitled to vote, shall be guilty of personation, and shall be liable to the penalties of that offence as provided by the Ballot Act, 1872.

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3. The presiding officer shall attend and preside at the meeting, and shall appoint a clerk, who shall make regular minutes of the proceedings thereof.

4. Any question put to a public meeting shall, subject to the demand of a poll, be determined by the majority of the voters present and voting; provided that in the case of an equality of votes the presiding officer shall have a casting vote.

20

5. If at a public meeting convened for any purpose of the Libraries Acts a poll is demanded it shall be taken by voting papers in accordance with the regulations contained in Part I. of this Schedule.

25

6. Where a public meeting is convened for the purpose of determining not only the question as to the adoption of the Libraries Acts, but also a question as to the limitation of the rate, then if a poll is demanded at any period of the proceedings it shall be taken upon both of such questions.

III.—FORM OF VOTING PAPER.

30

Public Libraries Acts.

BOROUGH (Parish or other Library District) of

No. (Here insert number of voter in borough roll or county register, as the case may be.)

[To be omitted if Libraries Acts already adopted.]	Question 1 -	-	Are you in favour of the adoption of the Libraries Acts for the borough (or parish, &c.) of	Answer 1. (To be filled in "Yes" or "No".)	35
	Question 2 -	-	Are you in favour of the rate being limited to one halfpenny in the pound? (Or to three farthings, or of the existing limitation of the rate under the Libraries Acts being removed, or of the existing limitation to one halfpenny being raised to three farthings, as the case may require.)	Answer 2. (To be filled in "Yes" or "No".)	40
[To be omitted if no question stated in the requisition as to limitation of rate.]					45

Signature of Voter.

1. This voting paper will be collected by an authorised collector between A.D. 1889.
the hours of 8 a.m. and 8 p.m. on day, the 18
(insert polling day), or may be sent by prepaid post or by hand, addressed to
(state name or designation of presiding officer, and place appointed by the district
5 authority). If it is sent it must be received at such address before 8 p.m. on
the above-mentioned day.
2. You may require the collector to show his authority in writing. No
authority is valid unless it is (signed by A.B., or sealed, or as the district
authority may direct).

Note. —

10

SECOND SCHEDULE.

15

Year and Chapter.	Title of Act.	Extent of Repeal.
18 & 19 Vict. c. 70.	The Public Libraries (England) Act, 1855.	Section eight, from "Pro- vided always" to the end of the section. Section twenty-three.
40 & 41 Vict. c. 54.	The Public Libraries Amend- ment Act, 1877.	The whole Act.
50 & 51 Vict. c. 22.	The Public Libraries Acts Amendment Act, 1887.	Section eleven.

**Public Libraries
Acts Amendment.**

A

B I L L

To amend the Public Libraries Acts.

*(Prepared and brought in by
Sir John Lubbock, Mr. Baumann,
Mr. Sydney Buxton, Sir William Houldsworth,
and Mr. Justin McCarthy.)*

*Ordered, by The House of Commons, to be Printed,
10 May 1889.*

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[Bill 217.]

Public Trustee Bill.

MEMORANDUM.

The object of this Bill is to establish a Public Trustee and Executor, and thus to meet the difficulty which both public bodies and private individuals experience in finding suitable trustees. The choice of an executor is frequently not less embarrassing. In some of the States of America, and some of the British Colonies, notably in New Zealand, a public functionary and a public office exist for the purpose.

The appointment of the Public Trustee and Executor will be entirely voluntary on the part of those creating a trust or a testator.

The Bill provides for the payment of fees on a regulated scale upon all receipts of income under a trust, or on realising property under a will, as for other duties connected with the administration of a trust, or the execution of a will. The Public Trust Office will therefore be not only self-supporting, but a profitable source of public revenue.

The Bill constitutes the Public Trustee as a corporation sole, with perpetual succession. The public would thus be able to appoint a trustee or executor who would never die, never leave the country, and never become incapacitated. The State would, under certain reservations, guarantee the fulfilment of all trusts placed in the Public Trust Office, and the execution of wills duly accepted.

The supersession of professional men in relation to trust property is distinctly provided against by the Bill.

Public Trustee Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Interpretation.
3. Appointment of public trustee.
4. Public trustee to be a corporation sole.
5. Subordinate officers and assistants.
6. Salaries and duties.
7. Expenses to be borne by the Consolidated Fund.
8. Public trustee not to act professionally.
9. Private persons may appoint public trustee to be trustee.
10. Public trustee may be appointed executor.
11. Public trustee may accept trusts imposed on him without his previous consent.
12. Public trustee may be appointed under power to appoint new trustees.
13. Executor or administrator may, with sanction of court, transfer administration to public trustee after probate.
14. Applications to court to be by petition. Court may sanction appointment of public trustee, though no application necessary to appoint ordinary trustee.
15. Court may appoint public trustee as new trustee.
16. Property may be taken out of control of public trustee.
17. Administration may be granted to the public trustee.
18. Public trustee may be administrator *durante minore ætate*.
19. Administration *cum testamento annexo* may be granted public trustee in proper cases.
20. Public trustee to be substituted for the Treasury Solicitor as Crown's nominee to take administration to intestates estates.
21. Public trust property may be placed under the control of the public trustee.

[Bill 111.]

A 2

Clause.

22. Or removed therefrom.
 23. Public trustee may be appointed committee of a lunatic's estate, guardian, receiver, or manager.
 24. Public trustee not to give bond or security.
 25. Public trustee not to be appointed jointly with another.
 26. Vesting trust property.
 27. Stamp duties.
 28. Public trustee to have all the powers, duties, and liabilities of an individual trustee.
 29. Public trustee not to hold shares, &c. subject to liability.
 30. Public trustee to have power to apply to Court.
 31. Commission.
 32. Commission what to cover.
 33. Costs as to matters not covered by commission.
 34. Remuneration as receiver or manager.
 35. The public trustee to keep separate accounts of each estate. Accounts to be open to inspection. The public trustee to give copies of accounts on payment.
 36. Treasury may make rules for certain matters.
 37. Public trustee may advance moneys for administration expenses.
 38. Deficiency in public trustee's account to be advanced out of Consolidated Fund. Excess to be paid into Consolidated Fund.
 39. Recovery of moneys from public trustee.
 40. Moneys due from public trustee to be recovered as debt to Crown.
 41. Liability for losses to certuis que trust.
 42. Abolition of office.
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B I L L

FOR

The appointment of a Public Trustee and Executor.

A.D. 1889.

WHEREAS it is expedient to appoint a public trustee to discharge in certain cases the office of trustee, executor, administrator, and other offices of trust, and to provide for the safe custody and management of trust property entrusted to such public trustee :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 10 1. This Act may be cited as the Public Trustee Act, 1889. Short title.
2. The word property in this Act means every kind of property, both real and personal, and includes any estate or interest therein. Interpretation.
- 15 3. The Lords Commissioners of the Treasury shall within six months after the *passing of this Act* and from time to time appoint in the name and on behalf of Her Majesty a proper person to be public trustee, and may amalgamate that office temporarily or otherwise with any other office. Appointment of public trustee.
- 20 4. The person for the time being holding the office of public trustee shall be a corporation sole by the name of "the public trustee," and by that name shall have perpetual succession with a capacity to acquire and hold in that name property of every description, to sue and to be sued, to execute deeds, using an official seal, to make leases, to enter into engagements binding on himself
- 25 and his successors in office, and to do all other acts necessary

[Bill 111.]

A.D. 1889. or expedient to be done in the execution of the duties of his office.

Subordinate
officers and
assistants.

5. The Lords Commissioners of the Treasury may from time to time appoint such deputies, clerks, servants, officers, and assistants as may be necessary for the discharge of the duties by this Act imposed upon the public trustee. The public trustee and such deputies, clerks, servants, officers, and assistants shall hold office for such term or terms and may be removed from office in such manner as the said Lords Commissioners may from time to time determine.

10

Salaries and
duties.

6. The salary of the public trustee and such deputies, clerks, servants, or assistants as aforesaid, and the conditions of their respective appointments, shall be such as the Lords Commissioners of the Treasury shall from time to time appoint, but shall be subject to section forty-two hereof.

15

Expenses to
be borne by
the Consoli-
dated Fund.

7. *Such salaries and the rent and expenses of all offices used by the public trustee and the expenses of management of all estates vested in him shall be paid out of the Consolidated Fund, subject to recoupment by the receipts of the said office.*

Public
trustee not
to act pro-
fessionally.

8. Neither the Public Trustee nor any deputy, servant, officer, or assistant, appointed under this Act or rules made hereunder, shall be entitled to act professionally, whether as counsel, solicitor, or auditor, in relation to any trust vested in the Public Trustee; and the Public Trustee may in his discretion employ in any trust executed by him such counsel, solicitor, auditor, accountant, receiver, bailiff, or other person as he may think expedient.

20

25

Private
persons may
appoint
public
trustee to be
trustee.

9. It shall be lawful for any person, with the consent of the public trustee, to appoint the public trustee by any deed or will creating a trust to be the trustee of such deed or will, and upon such appointment the property hereby granted, assigned, or settled shall vest in such public trustee and his successors in office, and shall be held by him or them upon the trusts declared or contained in the deed or will creating the trust:

30

Provided always, that the consent of the public trustee shall (except as herein-after provided) be recited in every such deed or will, and that every such deed shall be duly executed by the public trustee: Provided also, that no property shall be held by the public trustee upon any trust for any religious or charitable purpose under this or any other section of this Act.

35

10. The public trustee may, with his consent (to be recited as
aforesaid), be appointed executor of any will, or of any particular
property comprised in such will, and if so appointed shall be
entitled to apply for and obtain probate of such will, limited or not,
5 as the case may require.

A.D. 1889.

Public
trustee may
be appointed
executor.

11. If any person shall, by deed or will, appoint the public
trustee to be trustee or executor of such deed or will, or of any
property conveyed, devised, or bequeathed thereby, without the
previous consent of the public trustee, it shall be lawful for the
10 public trustee, if he shall think fit, to accept by deed poll under
his hand the office of such trustee or executor; and upon the
acceptance in manner aforesaid by the public trustee of such office,
the appointment shall have the same effect as if his previous
consent had been obtained: Provided always, that the public
15 trustee shall not be in any way responsible for any property com-
prised in any will or deed whereby he is appointed trustee without
his previous consent, and shall not be liable for any loss or mis-
application thereof unless and until he shall have accepted such
appointment in manner aforesaid, or such property shall have come
20 into his actual possession.

Public
trustee may
accept trusts
imposed on
him without
his previous
consent.

12. The person or persons in whom any power to appoint new
trustees of any instrument is vested may at any time, with the
consent of all persons beneficially interested in the trust estate (if
such persons are of full age), or, in case all such persons are not of
25 full age or do not all consent, with the sanction of the Chancery
Division of the High Court of Justice, and whether any occasion
for exercising the power has arisen or not, appoint the public
trustee to be sole trustee of such instrument in place of all the
existing, retiring, or deceased trustees thereof.

Public
trustee may
be appointed
under power
to appoint
new trustees.

13. Any executor who has obtained probate, or any administrator
who has obtained letters of administration with or without a will
annexed, and whether he has or has not acted in the administration
of the estate may, with the sanction of the Chancery Division of
the High Court of Justice, transfer such estate to the public trustee
35 for administration. And the order of the said Chancery Division
sanctioning such transfer shall give to the public trustee all the
powers of such executor or administrator, and may, if the court
so direct, vest the estate of such executor or administrator in the
public trustee.

Executor or
adminis-
trator may,
with sanc-
tion of court,
transfer ad-
ministration
to public
trustee after
probate.

14. All applications for the sanction of the court to any appoint-
ment of the public trustee as trustee of any instrument, or to the
40

Applications
to court to

A.D. 1889.

be by
petition.
Court may
sanction
appointment
of public
trustee,
though no
application
necessary to
appoint
ordinary
trustee.
Court may
appoint
public
trustee as
new trustee.

transfer to him of any estate under the last preceding section, shall be made in a summary way by summons or petition. The court shall have power, if it think fit, to sanction the appointment of the public trustee as trustee although there may be no vacancy in the trust or there may be in existence full power to fill up the vacancy 5 in the trust by appointing new trustees or a new trustee without any application to the court, and though some or all of the existing trustees desire to continue to act. .

15. In all cases in which the High Court of Justice has power to appoint a new trustee or new trustees of any instrument, whether as 10 sole trustee or to act jointly with others, the court may, if satisfied that it is for the benefit of the trust estate, appoint the public trustee to be sole trustee of such instrument.

Property
may be
taken out of
control of
public
trustee.

16. Nothing in this Act shall prevent the re-transfer of any property which may have been transferred to or become vested in 15 the public trustee to the original or any subsequently appointed trustee, or to such person as the Chancery Division of the High Court of Justice shall direct.

Administra-
tion may be
granted to
the public
trustee.

17. The court or a judge having jurisdiction to grant letters of administration of the estate and effects of any deceased person may, 20 upon the application of the public trustee and with the consent (to be proved in such manner as the court or judge may require) of the person or persons entitled to obtain such administration, grant letters of administration, whether absolute or limited, to the public trustee, either in his own name or as the attorney of the person or 25 persons so entitled.

Public
trustee may
be adminis-
trator
durante
minore
estate.

18. The court or judge having jurisdiction as last aforesaid may, with the consent of the public trustee, grant to him administration of the estate and effects of any deceased person "durante minore ætate" of any person entitled to such administration, or for any 30 other limited time in any case where such court or judge is satisfied that it would be for the advantage of the persons interested in such estate that such grant should be made.

Administra-
tion cum
testamento
annexe may
be granted
public
trustee in
proper cases.

19. The court or judge having jurisdiction as aforesaid, may on the application of the public trustee, grant to him 35 administration with the will annexed of the estate and effects of any deceased person by whose will there is given to the public trustee upon trust any legacy or share which, if given to an individual for his own use, would entitle him to a similar grant.

20. In all cases in which under or by virtue of the Treasury Solicitor Act, 1876 (thirty-nine and forty Victoria, chapter eighteen), any court has power to grant administration of the personal estate of any deceased person to the Treasury Solicitor for the time being nominated for that purpose under Her Majesty's Royal Sign Manual, and Her Majesty by warrant under Her Royal Sign Manual is pleased to nominate the public trustee for the time being as her nominee to receive such grant, the court may grant such administration for the use of Her Majesty to the public trustee by his official name and his successors, or if the warrant so provide, to some person nominated in that behalf by the public trustee; and the public trustee and his deputies duly appointed as herein-before provided shall have the same powers, duties, and liabilities with respect to any estate of which letters of administration are granted to the public trustee as are by the said Act, thirty-nine and forty Victoria, chapter eighteen, given to or imposed upon the Treasury Solicitor and the assistant solicitor of Her Majesty's Treasury.

A.D. 1889.
Public trustee to be substituted for the Treasury Solicitor as Crown's nominee to take administration to intestate's estates.

20. Provided always, that all moneys accruing to the hands of the public trustee by virtue of any grant of administration under this section shall be paid by him to a separate account at the Bank of England to be called the Crown nominee's account, and all moneys paid to such account shall be dealt with as provided by the said Act, thirty-nine and forty Victoria, chapter eighteen.

21. Her Majesty may, by Order in Council, direct that any property held in trust for the benefit of private persons or public bodies or communities by the Crown, or by officers or trustees appointed in virtue of any Act of Parliament, to hold such trust property on behalf or as nominees of the Crown, shall be placed under the control of the public trustee; and every such Order in Council shall define the nature and extent of the powers intended thereby to be vested in the public trustee in respect of the property to which such Order relates, and shall direct the way in which such property is to be transferred to or vested in the public trustee; and when any such property is placed under the control of and transferred to or vested in the public trustee, all the duties, powers, and responsibilities of the officers, trustees, or other persons holding or administering the same, shall cease, and such officers, trustees, or other persons shall forthwith hand over to the public trustee all deeds, papers, and moneys belonging or relating to such property.

Public trust property may be placed under the control of the public trustee.

22. Her Majesty may, by Order in Council, revoke any former Order in Council directing any property to be placed under the

Or removed therefrom.

[111.]

B

A.D. 1889. — control of the public trustee, and may by such Order revoke or alter the powers vested in the public trustee in respect of any such property, and direct the public trustee to transfer or convey such property to the persons by whom the same was previously held, or any other person or persons: Provided always, that no Order 5 in Council made under the twenty-first or twenty-second sections hereof shall alter or affect the trusts upon which such property is held.

Public trustee may be appointed committee of a lunatic's estate, guardian, receiver, or manager. **23.** It shall be lawful for the court or a judge having jurisdiction to appoint committees of lunatics' estates, guardians of infants, 10 guardians ad litem, or receivers or managers of any property, in all cases in which such court or judge shall be satisfied that it will be for the advantage of the persons beneficially entitled to the property to which such appointment relates, to appoint the public trustee with his consent to be such committee, guardian ad litem, 15 receiver, or manager.

Public trustee not to give bond or security. **24.** Where administration is granted to the public trustee or the public trustee is appointed to any office herein-before mentioned, he shall not be required to execute any bond, find any sureties, or give any security for the due discharge of the duties of such office, 20 but shall be subject to the same liabilities and duties as are imposed upon a private individual receiving a grant or appointment by the bond or security which such private individual is required to execute.

Public trustee not to be appointed jointly with another. **25.** It shall in no case be lawful to appoint the public trustee to 25 be a trustee, executor, administrator, guardian, committee, receiver, or manager jointly with any other person or persons, but the public trustee shall always be sole trustee, executor, administrator, guardian, committee, receiver, or manager: Provided always, that if the public trustee shall, without his consent, be appointed 30 executor or trustee of any will or deed jointly with any other person or persons, and such other persons renounce probate of the said will or disclaim the trusts of such will or deed, it shall be lawful for the public trustee after such renunciation or disclaimer to accept the office of executor or trustee of such will or deed. 35

Vesting trust property. **26.** When the public trustee is appointed trustee the trust property shall be vested in the public trustee; such vesting may be effected by any of the ways in which trust property can, for the time being, be vested in a trustee on his appointment.

Stamp duties. **27.** All instruments executed for the purpose of vesting trust 40 property in the public trustee, shall be liable to the same stamp

duties as shall for the time be payable on similar instruments in the case of other trustees, and to no higher or other stamp duty. A.D. 1889.

28. The public trustee when filling any office under the provisions of this Act shall have all the powers, rights, duties, and liabilities, including powers of investment, and be subject to the same control and the same process of all courts of justice which an individual filling the same office under the same instrument or appointment would have and be subject to under the same circumstances, and shall be liable to be removed from such office in the same cases and for the same causes in and for which an individual might be removed.

Public trustee to have all the powers, duties, and liabilities of an individual trustee.

29. The public trustee shall not invest any moneys under his control in or accept the transfer of any stocks, shares, or any other property, subject to any liability for unpaid calls or otherwise: Provided that if any such stocks or shares shall form part of any property of which the public trustee is appointed trustee he shall have power to sell the same without their having been transferred to him and join in any transfer necessary to vest the same in any purchaser thereof: Provided also, that nothing in this section contained shall make it unlawful for the public trustee to accept the transfer of, or (where the instrument creating the trust authorises such investment) from investing in the purchase or on the security of leasehold lands and hereditaments.

Public trustee not to hold shares, &c. subject to liability.

30. The public trustee, when filling any office under the provisions of this Act, shall have the same rights and powers of applying for directions, or otherwise, to the Chancery Division of the High Court of Justice under the Rules of the Supreme Court or otherwise, and of paying money into court under the Trustee Relief Act, and of having the trusts of any instrument carried into execution, or the estate of any person administered under the direction of the Court as an individual holding the like office would have under the like circumstances.

Public trustee to have power to apply to Court.

31. The public trustee shall be entitled to retain out of all properties transferred to or received by him under this Act as trustee, executor, administrator, or committee, a commission, for the credit of the Consolidated Fund, and to meet the expenses of his office, the rate of which shall be fixed from time to time by rules to be issued by the Lords Commissioners of the Treasury.

Commission.

32. The commission above mentioned shall cover such expenses, risk, and responsibilities of management, collection, and distribution of the trust estate, as shall be provided by such rules, and shall not cover any costs which such rules direct that it shall not cover.

Commission what to cover.

A.D. 1889. Any balance of receipts from such commission over the expenses payable thereout shall be paid into the Consolidated Fund.

Costs as to matters not covered by commission.

33. In respect of all matters not covered by the commission the public trustee shall be allowed to retain such and no more costs, charges, and expenses as would be allowed to an individual trustee 5 under the like circumstances.

Remuneration as receiver or manager.

34. The commission herein-before mentioned shall not apply to capital or income received by the public trustee in the capacity of receiver or manager. The public trustee, when acting as receiver or manager, shall be entitled to such commission or remuneration as 10 the order of court appointing him to such office may direct, and if such order contain no such direction to such remuneration as by the practice of the said court a private individual filling the same office would be entitled to, and no more.

The public trustee to keep separate accounts of each estate.

35. The public trustee shall enter into books to be kept by 15 him for that purpose separate and distinct accounts of each estate of which he is trustee, or which is under his control or management under the provisions of this Act, and of all such sums of money and securities for money, goods, and things as shall come to his hands or to the hands of any person employed by him or in 20 trust for him under this Act, and likewise of all payments made by him on account of such estates (specifying the dates of such receipts and payments respectively) and of all debts due by or to the same estates. The said books shall be kept in the public trustee's office, and be at all times open for the inspection of the Lords Com- 25 missioners of the Treasury, and of any person authorised by them to demand inspection thereof, and also of any person interested in the estate to which such account relates.

Accounts to be open to inspection.

The public trustee to give copies of accounts on payment.

The public trustee shall on the request in writing of any person beneficially interested in any estate under his control or manage- 30 ment as aforesaid supply to him or her a copy of the said account or any part thereof at a charge to be fixed from time to time by the Lords Commissioners of the Treasury, but not to exceed *one shilling* per folio.

Treasury may make rules for certain matters.

36. The Lords Commissioners of the Treasury may from time to 35 time make, revoke, or alter rules under this Act providing for the following matters, subject to the provisions herein contained:

(a.) The establishment of a principal official trustee's office in London, and of branch offices in such places as the said Lords Commissioners shall think fit; 40

(b.) The constitution and arrangement of such offices, including the appointment of a board of advice to determine what trusts

shall be accepted by the public trustee, and the conduct of business in such offices, and the custody of property transferred to the public trustee, and the receipt, payment, and custody of moneys belonging to or accruing from such property ;

5 (c.) The security to be given by the public trustee, and by all or any of the clerks or other officials in his office, for the due discharge of their respective duties ;

10 (d.) The rate of commission to be retained by the public trustee under section thirty-two of this Act, and the expenses to be covered thereby, and the application thereof in payment of such expenses ;

15 (e.) The form of accounts to be kept by the public trustee and any deputy public trustees appointed under this Act, the bank or banks in which any moneys in his or their hands are to be deposited, and the mode in which and the times at which balances in his hands are to be transferred to the Consolidated Fund ;

(f.) The periodical audit of such accounts :

20 (g.) The preparation and form of annual balance sheets to be prepared by the official trustee :

Provided that all balance sheets prepared in accordance with such rules shall be annually laid before the House of Commons.

25 All rules made under the foregoing provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and if Parliament is not then sitting within three weeks after the beginning of the then next session of Parliament, and shall have effect as if enacted by this Act.

30 **37.** The public trustee may, when it appears to him necessary, make advances out of moneys in his hands applicable to the payment of expenses for the payment of expenses necessarily incurred by him in obtaining probate or administration of the estate of any deceased person, including probate duty, or in defending, on behalf of any estate under his control, any action or other legal proceedings, and until such advances have been repaid may charge such estate with interest on the sums so advanced at such rate, not exceeding *four* per cent., as the Lords Commissioners of the Treasury may from time to time direct.

40 Such advances and interest shall be a first and paramount charge upon all moneys received by the public trustee on account of the estate in respect of which the same may be made.

A.D. 1889.

Public trustee may advance moneys for administration expenses.

A.D. 1889.

Deficiency
in public
trustee's
account to
be advanced
out of
Consolidated
Fund.

Excess to be
paid into
Consolidated
Fund.

Recovery of
moneys from
public
trustee.

Moneys due
from public
trustee to be
recovered as
debt to
Crown.

Liability for
losses to
cestuis que
trust.

38. *If the balance in the public trustee's hands applicable to the payment of expenses is at any time insufficient to meet the expenses payable thereout, the Lords of the Treasury may from time to time advance such sums out of the Consolidated Fund as may be necessary to meet such charges; Provided that the total amount 5 so advanced in any one financial year does not exceed the sum appropriated by Parliament for such purpose, and provided also that all moneys so advanced are repaid by the public trustee to the Consolidated Fund so soon as the balance in the public trustee's hands applicable as aforesaid admits of such repayment; and if 10 the balance in the public trustee's hands is more than sufficient to meet the charges thereon, the public trustee shall from time to time, at such time as the Lords of the Treasury shall direct, pay the excess into the Consolidated Fund, and moneys so paid in shall become a part of Her Majesty's Consolidated Revenue. 15*

39. If at any time it appears to the Board of Trade, in consequence of such audit or otherwise, that the public trustee has improperly expended or has not duly accounted for any moneys received by him under the provisions of this Act, the said Board shall immediately recover such moneys from the public trustee 20 in manner herein-after provided.

Provided that, if the public trustee prove to the Board of Trade that such moneys were so improperly expended or not duly accounted for through the default of some other officer, without his knowledge or any default on his part, then the public trustee 25 shall not be liable, but the Board of Trade shall recover the same moneys from the officer so defaulting.

40. All moneys standing to the credit of or payable by the public trustee, or any officer or assistant of his into the public trustee's account, shall be deemed to be the property of the Crown 30 for the purposes of this Act, and shall be recoverable from the person by whom the same are payable by action, suit, or information in the High Court of Justice in like manner as money due to Her Majesty.

41. The public trustee shall be liable to make good such losses 35 of property and to pay such costs and moneys to the persons beneficially entitled to any estate under his control or management as such persons could under like circumstances recover from an individual holding the same office as that held by the public trustee, but shall not be further or otherwise liable to such persons. 40 *Any moneys which the public trustee may so become liable to pay shall be paid in the first instance out of the Consolidated Fund, but,*

except in cases where the Board of Trade otherwise order, may be recovered as a debt due to the Crown from the public trustee or such officer as may be responsible for such loss, costs, or moneys or their respective sureties.

A.D. 1889.

- 5 42. If at any time within five years from the commencement of this Act the Lords Commissioners of the Treasury and the Lord Chancellor shall be of opinion that no beneficial purpose is served by the continuance of the office of public trustee hereby created, the Lords Commissioners of the Treasury and the Lord Chancellor may,
10 by order under their joint hands, abolish the office of public trustee, and shall by such order make such provisions for winding up any trusts then vested in the public trustee, and for disposing of all property then vested in him in accordance with the trusts affecting the same, as they shall think fit: Provided always, that in the
15 event of the abolition of the office of public trustee by order under this section no person holding the office of public trustee, or any other office created by or under the authority of this Act, shall be entitled to claim any compensation whatever for loss of such office, and every appointment made to any office created by or under the
20 authority of this Act shall be subject to the power given by this section of abolishing such office without compensation to the holder thereof.

Abolition
of office.

Public Trustee.

A

B I L L

For the appointment of a Public Trustee
and Executor.

(Prepared and brought in by
*Mr. Howard Vincent, Mr. Warrington,
Sir Albert Rollit, Mr. Anderson, Mr. Bradlaugh,
and Mr. Hozier.*)

*Ordered, by The House of Commons, to be Printed,
25 February 1889.*

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[Under 2 oz. Price 2*l.*]

[Bill 111.]

Public Trustee Bill. [H.L.]

ARRANGEMENT OF CLAUSES.

Clause.

1. Office of public trustee.
 2. Appointment of public trustee to be trustee, executor, &c.
 3. Liability of Consolidated Fund.
 4. Appointment of public trustee and officers, and expenses of office.
 5. Fees charged by public trustee.
 6. Holding and transfer of property.
 7. Appeal to the High Court.
 8. Rules.
 9. Mode of action of public trustee and Treasury.
 10. Definitions.
 11. Short title.
-

A

B I L L

INTITULED

An Act for the appointment of a Public Trustee.

A.D. 1889.

[MEM.—*The words enclosed in brackets and underlined are proposed to be inserted in Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1.—(1.) There shall be established the office of public trustee. Office of
public
trustee.
 (2.) The public trustee shall be a corporation under that name, with perpetual succession and an official seal, and power to hold land without licence in mortmain, and may sue and be sued under the above name like any other corporation sole.
- 10 (3.) Subject to the provisions of this Act, and to the rules made thereunder, the public trustee may act either alone or jointly with any person or body of persons in any capacity to which he may be appointed in pursuance of this Act, and shall have all the same powers, duties, and liabilities, and be entitled to the same rights
- 15 and immunities and be subject to the control and orders of the High Court, as a person not a corporation acting in the same capacity ; provided that where the trust property held by the public trustee is of such a nature as to involve, irrespectively of the terms of the trust, the payment of any rent call or debt, or the discharge
- 20 of any other liability, the public trustee shall not be liable therefor except so far as the trust property is available to meet the same.

- 25 2.—(1.) The public trustee may be appointed to be trustee of any English will or marriage or other family settlement or of any trust which he is authorised by an order under this section to accept, and may be so appointed whether the will, settlement, or trust was made or came into operation before or after the passing of this Act, and either as an original or as a new trustee, in the same cases, and in the same manner, and by the same persons or court, as if he were a person not a corporation,

Appoint-
ment of
public
trustee to
be trustee,
executor,
&c.

[Bill 351.]

A 2

A.D. 1889. with this addition, that though the trustee originally appointed were two or more, the public trustee may be appointed sole trustee.

(2.) The court having jurisdiction to grant probate of a will or letters of administration may be authorised by an order under this section to grant such probate or letters to the public trustee, and for that purpose the court shall consider the public trustee as entitled equally with any other person or class of persons to obtain the grant of letters of administration, save that the consent or citation of the public trustee shall not be required for the grant of letters of administration to any other person.

(3.) An appointment or grant may be made without naming the person for the time being holding the office of public trustee.

(4.) An order under this section may be made by the Lord Chancellor with the concurrence of the Treasury, but the draft of any order proposed so to be made shall be laid on the table of each House of Parliament not less than thirty days on which such House has sat before the order is made, and if the draft is disapproved of by a resolution of either House, the order shall not be made.

Liability of Consolidated Fund.

3. The Consolidated Fund of the United Kingdom shall be liable to make good any liability arising out of any fraud on the part of the public trustee, or of any officer or person employed by him, and also any liability of the public trustee in the cases, and under the circumstances specified in rules under this Act, and all sums which in pursuance of this section are payable out of the Consolidated Fund shall be charged on and issued out of the Consolidated Fund or the growing produce thereof.

Before any such rule is made the draft of it shall be laid before the House of Commons for not less than thirty days on which that House has sat, and if the draft be disapproved of by a resolution of that House, the rule shall not be made.

Appointment of public trustee and officers, and expenses of office.

4.—(1.) The Treasury, with the concurrence of the Lord Chancellor, shall from time to time appoint a fit person to the office of public trustee during pleasure.

(2.) The holder of the office of public trustee shall receive such salary as the Treasury from time to time assign.

(3.) He may employ such officers and persons as subject to the sanction of the Treasury he may from time to time find necessary for the purposes of this Act, and those officers and persons shall be remunerated at such rates and in such manner as the Treasury may from time to time sanction.

(4.) The said salary and remuneration, and such expenses of executing the office of public trustee and otherwise carrying this

Act into effect as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament, but any liability of the public trustee which is not to be made good out of the Consolidated Fund shall not be paid as part of such expenses.]

A.D. 1889.

- 5 5.—(1.) There shall be charged in respect of the duties of the public trustee such fees, whether by way of per-centage or otherwise, as the Treasury with the sanction of the Lord Chancellor from time to time fix, and such fees shall be collected and accounted for by such persons and in such manner and shall be
- 10 paid to such account as the Treasury from time to time direct.

Fees charged by public trustee.

(2.) Any expenses which might be retained or paid out of the trust property if the public trustee were a private trustee shall be so retained or paid, and the fees shall be retained or paid in the like manner as and in addition to such expenses.

- 15 (3.) [Such fees shall, under the regulations of the Treasury, be applied as an appropriation in aid of moneys provided by Parliament for expenses under this Act, and so far as not so applied shall be paid into the Exchequer.]

- 20 6.—(1.) The public trustee may hold property jointly with any person or body of persons or corporation aggregate or sole.

Holding and transfer of property.

(2.) The public trustee may under that name be entered in the books of any company or person as holder, either alone or jointly with any person or body of persons, of stock, shares, or securities entered in such books.

- 25 (3.) The order of the public trustee given under his seal, and confirmed by the Treasury, shall be a necessary and sufficient authority to any such company or person for the transfer of any such stock, shares, or securities so far as respects the interest of the public trustee.

- 30 (4.) Upon the sale of any real property in which the public trustee is interested, the receipt of the purchase money shall not be valid unless it is acknowledged by the public trustee under his seal and by the Treasury.

- 35 7.—(1.) Whenever a person is aggrieved by any act or omission of the public trustee in relation to any trust, he may apply to the High Court of Justice, and the court may make such order in the matter as the court thinks just.

Appeal to the High Court.

(2.) Subject to rules of court, an application under this section shall be made to a judge of the Chancery Division of the High Court in chambers.

(3.) A decision of the court under this section shall be conclusively binding on all persons interested in the trust.

A.D. 1889.
Rules.

8.—(1.) The Lord Chancellor, with the approval of the Treasury, may from time to time make, revoke, and alter rules for regulating the office of the public trustee and carrying this Act into effect, and in particular in relation to all or any of the following matters, that is to say—

- (a) the refusal by the public trustee of any trust or the imposition of conditions on his acceptance of any trust;
- (b) the retirement of the public trustee from any trust;
- (c) whether and in what circumstances the public trustee may employ a solicitor or banker other than the solicitor or banker employed by any co-trustee or other persons interested in the trust;
- (d) (subject to the provisions of this Act) the transfer to and from the public trustee of any property;
- (e) the accounts to be kept, and the audit thereof;
- (f) the regulation by the public trustee of any branch office;

(2.) Rules made under this section shall be laid before both Houses of Parliament forthwith after they are made, if Parliament be then in session, and if not, then forthwith after the beginning of the then next session of Parliament. If either House of Parliament resolves that any such rule shall be annulled, the same shall be annulled from the date of such resolution, without prejudice however to anything previously done in pursuance thereof.

(3.) If the rules require a declaration to be made for any purpose, a person who makes such declaration knowing the same to be untrue in any material particular shall be guilty of a misdemeanor.

Mode of
action of
public
trustee and
Treasury.

9.—(1.) The person who holds the office of public trustee, and such other person on his behalf as may be for the time being directed by rules under this Act, may take any oath, make any declaration, verify any account, give personal attendance at any court or place, and do any act or thing whatsoever which the public trustee is required or authorised to take, make, verify, give, or do.

(2.) Where any bond or security is required from a private person upon the grant to him of administration, or upon his appointment to act in any capacity to which the public trustee is appointed, the public trustee shall not be required to give such bond or security, but shall be subject to the liabilities and duties imposed by such bond or security.

(3.) Any confirmation by the Treasury of an order of the public trustee under this Act, and any receipt given by the Treasury for the purposes of this Act, may be under the hands of two Commis-

sioners of the Treasury, or of a secretary or assistant secretary of the Treasury. A.D. 1889.

Definitions.

10. In this Act, unless the context otherwise requires—
- 5 The expression “probate” includes the confirmation of an executor in Scotland :
- The expression “administration” means letters of administration of the personal estate and effects of a deceased person, whether general, or with a will annexed, or limited either in time or otherwise, and includes confirmation in Scotland :
- 10 The expression “trust” includes an executorship or administratorship, and any other capacity in which the public trustee acts in pursuance of this Act, and the expression “trust property” shall include all property in the possession or under the control wholly or partly of the public trustee by virtue of
- 15 any trust :
- The expression “expenses” includes costs and charges :
- The expression “Treasury” means the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty’s Treasury :
- 20 The expression “High Court” means Her Majesty’s High Court of Justice.

11. This Act may be cited as the Public Trustee Act, 1889.

Short title.

Public Trustee. [H.L.]

A

B I L L

INTITLED

An Act for the appointment of a Public
Trustee.

(Brought from the Lords 19 July 1889.)

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[Bill 361.]

Public Works Loans Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Grants for public works and Scotch Fishery Board.
2. Certain debts not to be reckoned as assets of the local loans fund.
3. Reduction of rate of interest on drainage and land improvement charges.
4. Repeal of section 8 of 46 & 47 Vict. c. 26.
5. Effect of rentcharges created under 10 & 11 Vict. c. 32. &c.
6. Effect of certificate by Irish Land Commission.
7. Provision for redemption of annuities payable in respect of branch railways to dockyards.
8. Short titles.

SCHEDULES.

A

B I L L

TO

Grant Money for the purpose of certain Local Loans, and for other purposes relating to Local Loans. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1.—(1.) For the purpose of local loans there may be issued by the National Debt Commissioners the following sums; namely,
- (a.) For the purpose of loans by the Public Works Loan Commissioners, any sum or sums not exceeding in the whole the sum of *two million pounds*;
- 10 (b.) For the purpose of loans by the Commissioners of Public Works in Ireland, any sum or sums not exceeding in the whole *one million pounds*;
- (c.) For the purpose of loans by the Fishery Board for Scotland, any sum or sums not exceeding in the whole *twenty-five*
- 15 *thousand pounds*.
- (2.) The sums so issued shall be issued during a period ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887.
- 20 2. Whereas it is expedient that the principal of the several local loans specified in the First Schedule hereto should, to the extent of the amount specified in the last column of that schedule, not be reckoned as assets of the local loans fund established under the National Debt and Local Loans Act, 1887: Be it therefore enacted
- 25 that the principal of the said local loans shall, to that extent, be written off from the account of assets of the local loans fund, and the provisions of section fifteen of the said Act shall, so far as applicable, apply thereto.

Grants for public works and Scotch Fishery Board.

50 & 51 Vict. c. 16.
Certain debts not to be reckoned as assets of the local loans fund.
50 & 51 Vict. c. 16.

[Bill 365.]

A

A.D. 1889.

Reduction
of rate of
interest on
drainage
and land
improvement
charges.
10 & 11 Vict.
c. 42.
26 & 27 Vict.
c. 88.

3. Whereas under the Landed Property Improvement (Ireland) Act, 1847, and the Drainage and Improvement of Lands (Ireland) Act, 1863, and the Acts amending and extending the same respectively, the Commissioners of Public Works in Ireland have granted loans for the purposes of drainage and land improvement, and such loans are to be repaid by terminable rentcharges.

And whereas in calculating such rentcharges, interest was reckoned at the rate of three and a half per centum per annum, and it is expedient to reduce the annual amount of the said rentcharges by reducing the rate of interest on which they were calculated, 10 and extending the term during which they are payable: Be it therefore enacted as follows:—

Where under the recited Acts, or any of them, except the Acts mentioned in the Second Schedule to this Act, any drainage loan or land improvement loan has been sanctioned by the Treasury 15 on or before the *last day of December one thousand eight hundred and eighty-one*, any rentcharge created either before or after the *passing of this Act* for repayment to the said Commissioners of the loan or of any loan granted as an addition thereto shall, as to any instalment to become due on or after the 20 first gale day next after the *passing of this Act* be reduced in the case of any rentcharge created for a term of twenty-two years, to *five* per cent., and in the case of any other rentcharge to *four* per cent. on the amount of the loan, and shall be payable for such term as the said Commissioners may by 25 order declare to be necessary for the repayment with interest at *three and one eighth* per cent. per annum of so much of the loan as has not accrued due for payment on the said day, and the order shall as soon as may be after the *passing of this Act* be made and notified by post or otherwise in manner directed by 30 the said Commissioners to the person by or through whom the rentcharge should be paid.

Provided that where on the said day there are unpaid arrears of instalments of the rentcharge in excess of the instalment due on that day, this section shall not apply to that rentcharge, except on 35 such terms with respect to repayment of arrears as the Treasury may require.

An order of the said Commissioners under this section shall be deemed, according as the case requires, to form part of the original order or award charging the land with repayment of the amount 40 advanced.

4. Section eight of the Sea Fisheries (Ireland) Act, 1883, is hereby repealed. A.D. 1889.

5. Where under the Landed Property Improvement (Ireland) Act, 1847, and the Acts amending and extending the same, money has been or is hereafter advanced to the owner of any particular estate in land and a rentcharge has been or is created for the repayment of the money so advanced, then on the cesser or determination of that particular estate the rentcharge so created shall, notwithstanding anything in the said Acts, be a charge on the fee simple and inheritance of the land in priority to all charges except quit-rents, rentcharges in lieu of tithes, and any charges prior in date and created under any Act for the improvement or drainage of lands. Repeal of s. 8 of 46 & 47 Vict. c. 26.
Effect of rentcharges created under 10 & 11 Vict. c. 32. &c.

6. A certificate purporting to be under the common seal of the Irish Land Commission shall be evidence that any sum stated therein to be due to that Commission in respect of any property vested in the Commission from any person named in the certificate is so due, and that any sum stated therein to be due to that Commission and to be charged on any property named therein is so charged. Effect of certificate by Irish Land Commission.

7. Whereas under the agreements mentioned in the Third Schedule to this Act the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland (herein-after referred to as the Admiralty) are bound to pay annuities to certain railway companies in respect of the construction of certain branch railways to dockyards, but are entitled to redeem those annuities on the terms mentioned in those agreements, and it is expedient to make provision for such redemption; be it therefore enacted as follows:— Provision for redemption of annuities payable in respect of branch railways to dockyards.

(1.) The Commissioners for the Reduction of the National Debt may, out of any funds for the time being in their hands on account of savings banks, lend to the Admiralty, and the Admiralty may borrow from those Commissioners such money as may be required for redemption of the said annuities, or any of them, on such terms as to interest, sinking fund, and period of repayment as may be agreed on between those Commissioners and the Admiralty with the approval of the Treasury.

(2.) *The sums so advanced by those Commissioners shall be repaid out of the moneys provided by Parliament for naval services, and if and so far as those moneys are insufficient, shall be charged on and payable out of the Consolidated Fund or the growing produce thereof.*

A.D. 1889. 8.—(1.) The Act of the session held in the tenth and eleventh
Short titles. years of the reign of Her present Majesty, chapter thirty-two,
intituled “An Act to facilitate the improvement of landed property
in Ireland,” is in this Act referred to and may be cited as the
Landed Property Improvement (Ireland) Act, 1847. 5

(2.) This Act may be cited as the Public Works Loans Act,
1889.

SCHEDULES.FIRST SCHEDULE.

LOANS BY THE COMMISSIONERS OF PUBLIC WORKS, IRELAND.

To whom Advance was made.	Purpose of Advance.	Act authorising Advance.	Amount advanced.	Amount repaid.	Amount outstanding.	Amount to be written off against Assets of Local Loans Fund.
Beatty, David -	Improvement of landed property.	10 Vict. c. 32.	£ s. d. 650 0 0	£ s. d. 65 6 0	£ s. d. 584 14 0	£ s. d. 584 14 0
Brady, Thomas -	Do. -	Do. -	100 0 0	7 10 2	92 9 10	92 9 10
Donovan, Bartholomew.	Do. -	Do. -	170 0 0	13 8 8	156 11 4	156 11 4
Pope, William -	Do. -	Do. -	600 0 0	14 2 4	585 17 8	585 17 8
Sundry items -	Expenses of investigation preliminary to loan.	Do. (s. 15)	86 11 8	Nil	86 11 8	86 11 8
The following tenants, viz. :—						
Gallagher, Patrick -	Improvement of their holdings.	44 & 45 Vict. c. 49.	120 0 0	10 2 4	109 17 8	109 17 8
Reddan, Bridget -			100 0 0	7 13 4	92 6 8	92 6 8
Smith, Mary -			100 0 0	6 0 3	93 19 9	93 19 9
Kilmartin, James -			60 0 0	3 16 1	56 3 11	56 3 11
			1,986 11 8	127 19 2	1,858 12 6	1,858 12 6

A.D. 1889.

SECOND SCHEDULE.**ACTS AUTHORISING CREATION OF RENTCHARGES TO WHICH PROVISIONS FOR REDUCTION OF INTEREST ARE NOT TO APPLY.**

Session and Chapter.	Short Title.	
29 & 30 Vict. c. 49.	- The Drainage Maintenance Act, 1866.	5
38 & 39 Vict. c. 82.	- The National School Teachers' Residences (Ireland) Act, 1875.	
40 & 41 Vict. c. 27.	- The Public Works Loans (Ireland) Act, 1877.	
42 & 43 Vict. c. 25.	- The Dispensary Houses (Ireland) Act, 1879.	
42 & 43 Vict. c. 74.	- The National School Teachers (Ireland) Act, 1879.	10

THIRD SCHEDULE.**AGREEMENTS WITH RAILWAY COMPANIES AS TO BRANCH RAILWAYS TO DOCKYARDS.**

Agreement between Cornwall Railway Company and Admiralty, dated 15th December 1865. 15

Ditto between Pembroke and Tenby Railway Company and Admiralty, dated 31st March 1870.

Ditto between Great Western Railway Company and London and South-Western Railway Company and Admiralty, dated 29th May 1874. 20

Ditto between London, Chatham, and Dover Railway Company and Admiralty, dated 29th July 1874.



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Public Works Loans.

A

B I L L

To grant Money for the purpose of certain Local Loans, and for other purposes relating to Local Loans.

(Prepared and brought in by
*Mr. Jackson and Mr. Chancellor of the
Exchequer.*)

*Ordered, by The House of Commons, to be Printed,
5 August 1889.*

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HODGES, FREGG, & CO., 104, Grafton Street, Dublin.

[*Price 1½d.*]

[Bill 366.]

A

B I L L

TO

Amend the Purchase of Land (Ireland) Act, 1885, and the Acts amending the same. A.D. 1889.

WHEREAS in some cases it is desirable to enable tenants about to purchase, or who have purchased their holdings under the Land Purchase (Ireland) Act, 1885, and the Acts amending the same, to increase the size of their holdings by purchasing additional lands which are reasonable adjuncts to such holdings :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this Parliament assembled, and by the authority of the same, as follows :

- 10 1. Where the sale of a holding is about to be made or has been made by a landlord to a tenant under the Purchase of Land (Ireland) Act, 1885, and the Acts amending the same, and such tenant is desirous of purchasing additional land which is a reasonable adjunct to his holding, the Land Commission may advance to the tenant, for the purpose of purchasing such additional land, the principal money, to be paid in like manner as if the purchaser had been tenant of such additional land at the time of the purchase and was about to purchase the same under the said Acts, and the provisions of the said Acts shall, except so far as the Land Commission otherwise direct, apply to the sale of additional land under this Act in like manner as if the purchaser had been the tenant of such land at the time of the purchase.

Land Commission may advance money to tenants to purchase lands to increase the size of their holdings.

- 25 2. Where the vendor is a tenant for life, or a person having the power of a tenant for life within the meaning of those expressions as used in the Settled Land Act, 1882, such vendor shall have all the powers given to the landlord by section six of the Purchase of Land (Ireland) Act, 1885, and all the provisions of such section shall apply to the sale.

Amendment of s. 6 of the Purchase of Land (Ireland) Act, 1885.

[Bill 163.]

A.D. 1889. — This section shall apply to the trustees of a settlement in the same manner as it applies to a tenant for life.

Additional land not to exceed 20 acres or 15*l.* a year Government value. 3. No advance shall be made by the Land Commission to any one purchaser for the purpose of purchasing over twenty acres of land under this Act, except in cases where the annual value of the lands to be purchased shall be under *fifteen pounds*. The annual value shall be estimated as provided by section thirty-one of the County Offices and Courts (Ireland) Act, 1877. 5

Power to make rules. 4. Rules for carrying this Act into effect shall be deemed to be rules under the Land Law (Ireland) Act, 1881, and shall be made 10 by the Land Commission, and forms and tables shall be made or adapted by the Land Commission for the purposes of this Act.

Purchase Acts to be read as one Act. 5. The Purchase of Land (Ireland) Act, 1885, the Land Law (Ireland) Act, 1887, and the Purchase of Land (Ireland) Amendment Act, 1888, except so far as the same is expressly altered or 15 varied by this Act or is inconsistent therewith, and this Act, shall be construed together as one Act.

Title. 6. This Act may be cited for all purposes as the Purchase of Land (Ireland) Amendment Act, 1889.



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13

**Purchase of Land
(Ireland) Acts
Amendment.**

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B I L L

To amend the Purchase of Land
(Ireland) Act, 1885, and the Acts
amending the same.

*(Prepared and brought in by
Colonel Nolan, Mr. Richard Power,
and Mr. T. M. Healy.)*

*Ordered, by The House of Commons, to be Printed,
18 March 1889.*

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ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh: or
HODGERS, PIGGIS, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 3d.]

[Bill 163.]

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Purchase of Land (Ireland) Act, 1885, and the Acts amending the same. A.D. 1889.

WHEREAS in some cases it is desirable to enable tenants about to purchase, under the Purchase of Land (Ireland) Act, 1885, and the Acts amending the same, to increase the size of their holdings by purchasing additional lands which are reasonable adjuncts to such holdings :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this Parliament assembled, and by the authority of the same, as follows :

- 10 1. Where the sale of a holding is about to be made by a landlord to a tenant under the Purchase of Land (Ireland) Act, 1885, and the Acts amending the same, and such tenant is desirous of purchasing additional land which either adjoins such holding or is in the opinion of the Land Commission under the special circumstances of the case reasonably required for the suitable and convenient use and enjoyment of such holding, the Land Commission may, if it thinks fit, advance to the tenant, for the purpose of purchasing such additional land, the principal money, to be paid in like manner as if the purchaser had been tenant of such additional land at the time of the purchase and was about to purchase the same under the said Acts, and the provisions of the said Acts shall, apply to the sale of additional land under this Act in like manner as if the purchaser had been the tenant of such land at the time of the purchase.

Land Commission may advance money to tenants to purchase lands to increase the size of their holdings.

- 25 Provided always, That nothing in this Act contained shall authorise the making to any one tenant of a larger advance than that which the Land Commission is authorised to sanction to any one purchaser of land under the Purchase of Land (Ireland) Act, 1885, and the Acts amending the same.

[Bill 225.]

A.D. 1889.

Amendment
of s. 6 of the
Purchase
of Land
(Ireland)
Act, 1885.

2. Where the vendor is a tenant for life, or a person having the power of a tenant for life within the meaning of those expressions as used in the Settled Land Act, 1882, such vendor shall have all the powers given to the landlord by section six of the Purchase of Land (Ireland) Act, 1885, and all the provisions of such section 5 shall apply to the sale.

This section shall apply to the trustees of a settlement in the same manner as it applies to a tenant for life.

Additional
land not to
exceed
20 acres or
15*l.* a year
Government
value.

3. No advance shall be made by the Land Commission to any one purchaser for the purpose of purchasing over ten acres of land 10 under this Act.

Power to
make rules.

4. Rules for carrying this Act into effect shall be deemed to be rules under the Land Law (Ireland) Act, 1881, and shall be made by the Land Commission, and forms and tables shall be made or adapted by the Land Commission for the purposes of this Act. 15

Purchase
Acts to be
read as one
Act.

5. The Purchase of Land (Ireland) Act, 1885, the Land Law (Ireland) Act, 1887, and the Purchase of Land (Ireland) Amendment Act, 1888, except so far as the same respectively are expressly altered or varied by this Act or are inconsistent therewith, and this Act, shall be construed together as one Act. 20

Title

6. This Act may be cited for all purposes as the Purchase of Land (Ireland) Amendment Act, 1889.

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**Purchase of Land
(Ireland) Acts
Amendment.**

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend the Purchase of Land
(Ireland) Act, 1885, and the Acts
amending the same.

*(Prepared and brought in by
Colonel Nolan, Mr. Richard Power,
and Mr. T. M. Healy.)*

*Ordered, by The House of Commons, to be Printed,
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[Under 1 oz. Price 4d.]

[Bill 226.]

Quarries Regulation Bill.

ARRANGEMENT OF CLAUSES.

PART I.

Preliminary.

Clause.

1. Short title and commencement of Act.
2. Application of Act.

Employment of Boys, Girls, and Women.

3. Employment of boys, girls, and women in quarries.
4. Penalty for employment of persons contrary to Act.

Returns, Notices, and Abandonment.

5. Returns by owners and agents.
6. Notice of accidents to be sent to inspector.
7. Fencing of abandoned quarry.

Inspection.

8. Appointment of inspectors of quarries.
9. Disqualification of persons as inspectors.
10. Powers of inspectors.
11. Notice to be given by inspectors of causes of danger not provided for.
12. Annual reports by inspectors.
13. Special reports and formal investigation when directed.

Arbitration.

14. Provisions as to arbitrations.

Coroners.

15. Coroners inquests on deaths from accidents in quarries.

PART II.

General Rules.

Clause.

16. General rules. Qualification of practical managers. Use of explosives. Security of top and sides of quarry. Fencing sides of bridges. Fencing of quarries. Ladders. Attendance of engineman. Breaks. Fencing machinery. Safety valves and gauges for boilers. Wilful damage. Observance of directions. Notifying danger.

Special Rules.

17. Special rules.
18. Establishment of special rules.
19. Secretary of State may object to special rules.
20. Amendment of special rules.
21. Publication of rules.
22. Punishment for defacing notices.
23. Certified copy of special rules to be evidence.

Penalties.

24. Penalty for offences against Act.
25. Summary proceedings for offences, penalties, &c.
26. General provisions as to summary proceedings.
27. Appeal to quarter sessions.
28. Summary proceedings for offences in Scotland.
29. Owner of quarry not to act as justice, &c. in proceedings under this Act.
30. Saving for proceedings under other Acts.
31. Application of fines.

Miscellaneous.

32. As to question whether quarry is a quarry or a mine.
33. Power of Secretary of State to revoke orders.
34. Service of notices.
35. Interpretation of terms.
36. Application of Act to Scotland.
37. Application of Act to the Isle of Man.
38. Repeal.
-

A
B I L L

FOR

The Regulation of Quarries.

A.D. 1889.

WHEREAS it is expedient to provide for the regulation and inspection of slate and other quarries :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and 5 Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

Preliminary.

1. This Act may be cited as the Quarries Regulation Act, 1889, 10 and shall come into operation on the *first day of January one thousand eight hundred and ninety*, which date is in this Act referred to as the commencement of this Act. Short title and commencement of Act.

2. This Act applies to all slate quarries, and to all other quarries in which more than twenty persons are employed. Application of Act.

15 *Employment of Boys, Girls, and Women.*

3. With respect to the employment of boys, girls, and women at or about any quarry, the following provisions shall have effect : Employment of boys, girls and women in quarries.

(i.) A boy or girl under the age of *ten* years shall not be so employed :

20 (ii.) No boy and no girl or woman shall be so employed for more than fifty-four hours in any one week, or for more than ten hours in any one day, or between the hours of nine at night and five on the following morning, or on Sunday, or after two o'clock on Saturday afternoon :

25 (iii.) Intervals for meals shall be allowed to every boy, girl, and woman so employed, amounting in the whole to not less than half an hour during each period of employment which exceeds [117.]

A 2

A.D. 1889.

five hours, and to not less than one hour and a half during each period of employment which exceeds eight hours.

The provisions of this section as to the employment of boys, girls, and women after two o'clock on Saturday afternoon shall not apply in the case of any quarry in Ireland, so long as it is exempted in writing by order of a Secretary of State.

Penalty for employment of persons contrary to Act.

4. If any person contravenes or fails to comply with any provision of this Act with respect to the employment of boys, girls, or women he shall be guilty of an offence against this Act; and in case of any such contravention or non-compliance by any person 10 whomsoever in the case of any quarry, the owner and agent of such quarry shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by enforcing to the best of his power the provisions of this Act to prevent such contravention or non-compliance. 15

If it appear that a boy or girl was employed on the representation of his parent or guardian that he or she was of that age at which his employment would not be in contravention of this Act, and under the belief in good faith that he or she was of that age, the owner or agent of the quarry and the immediate employer shall be 20 exempted from any penalty, and the parent or guardian shall for such misrepresentation be deemed guilty of an offence against this Act.

Returns, Notices, and Abandonment.

Returns by owners and agents.

5. On or before the *fifteenth day of January* in every year the 25 owner or agent of every slate quarry and of every quarry in which ironstone or fuller's earth is gotten, and of every quarry to which this section is applied by order of a Secretary of State, shall send to the inspector of the district, on behalf of a Secretary of State, a correct return, specifying, with respect to the year ending on the 30 preceding *thirty-first day of December*, the quantity in statute tons of mineral dressed or undressed which has been sold, treated, or used during that year, with the average percentage when known of metal contained in any metalliferous mineral, and the average number of persons ordinarily employed in or about the quarry. 35

The return shall be in such form as may be from time to time prescribed by a Secretary of State, and the inspector of the district on behalf of a Secretary of State shall from time to time on application furnish forms for the purpose of such return.

A Secretary of State may from time to time by order apply this 40 section to any description of quarries specified in the order.

Every owner or agent of a quarry who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act. A.D. 1889.

6. Where in or about any quarry, whether above or below ground, Notice of accidents to be sent to inspector.

5 either—

(1.) loss of life or any personal injury whatever to any person employed in or about the quarry occurs by reason of any explosion of any explosive, or of any steam boiler; or

10 (2.) loss of life or any serious personal injury to any person employed in or about the quarry occurs by reason of any accident whatever,

the owner or agent of the quarry shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident and of the loss of life or personal injury 15 occasioned thereby to the inspector of the district on behalf of a Secretary of State, and shall specify in such notice the character of the explosion or accident, and the number of persons killed or injured respectively.

Where loss of life or serious personal injury has immediately 20 resulted from an explosion or accident, the place where such explosion or accident occurred shall be left as it was immediately after the explosion or accident until visited by an inspector, unless compliance with this enactment would tend to increase or continue a danger or would impede the working of the mine, or unless an 25 inspector informs the owner or agent that he considers a visit unnecessary.

Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the 30 district on behalf of a Secretary of State within twenty-four hours after such death comes to the knowledge of the owner or agent.

Every owner or agent who fails to act in compliance with this section shall be guilty of an offence against this Act.

7. Where any quarry is abandoned or the working thereof 35 discontinued, at whatever time such abandonment or discontinuance occurred, the owner thereof and every other person interested in the minerals shall cause the outside or top, if dangerous, and the top of any shaft to be kept securely fenced for the prevention of accident.

Fencing of abandoned quarry.

40 Provided that—

(a.) Subject to any contract to the contrary, the owner of the quarry shall, as between him and any other person interested

A.D. 1889.

in the minerals of such quarry, be liable to carry into effect this section, and to pay any costs incurred by any other person interested in the minerals, in carrying this section into effect :

(b.) Where such abandonment or discontinuance occurred before 5 the *passing of this Act*, this section shall apply only to such shaft, or outside or top, if dangerous, of a quarry as is situate within fifty yards of any highway, cart road, public footpath, or place of public resort or in open or unenclosed land ; or which, not being situate as aforesaid, is required by an inspector 10 in writing to be fenced on the ground that it is specially dangerous :

(c.) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

If any person fail to act in conformity with this section he shall 15 be guilty of an offence against this Act.

No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section ; and if any owner or occupier of land or other 20 person wilfully obstructs the owner of a quarry or other person interested as aforesaid in doing any such acts he shall be guilty of an offence against this Act.

Any shaft or outside or top, if dangerous, of a quarry which is not fenced as required by this section, and is within fifty yards of 25 any highway, cart road, public footpath, or place of public resort, or is in open or unenclosed land, or is required by an inspector as aforesaid to be fenced, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875.

Inspection.

30

Appoint-
ment of in-
spectors of
quarries.

8. A Secretary of State may from time to time appoint any fit persons to be inspectors (under whatever title he may from time to time fix) of quarries to which this Act applies, and assign them their duties, and may award them such salaries as the Treasury may approve, and may remove such inspectors. 35

Notice of the appointment of every such inspector shall be published in the London Gazette.

Any such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of the United Kingdom with 40 reference to which the term is used.

No person shall be appointed as inspector of quarries in Wales who is not thoroughly conversant with the practical working of quarries, and speaks the Welsh language in addition to the English language. A.D. 1889.

- 5 9. Any person who practises or acts or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager, viewer, agent, or valuer of quarries or mines, or arbitrator in any differences arising between owners, agents, or managers of quarries or mines, or is otherwise employed in or about
10 any quarry or mine (unless he ceases to act as such) shall not act as an inspector of quarries under this Act. Disquali-
fication of
persons as
inspectors.

10. An inspector under this Act shall have power to do all or any of the following things; namely, Powers of
inspectors.

- (1.) To make such examination and inquiry as may be necessary
15 to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any quarry to which this Act applies :
(2.) To enter, inspect, and examine any quarry to which this Act applies, and every part thereof, at all reasonable times by day
20 and night, but so as not to impede or obstruct the working of the said quarry :
(3.) To examine into and make inquiry respecting the state and condition of any quarry to which this Act applies, or any part thereof, and the sufficiency of the special rules (if any)
25 for the time being in force in the quarry and all matters and things connected with or relating to the safety of the persons employed in or about the quarry or any quarry contiguous thereto :
(4.) To exercise such other powers as may be necessary for
30 carrying this Act into effect.

Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner and agent of a quarry who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination, or inquiry
35 under this Act in relation to such quarry, shall be guilty of an offence against this Act.

11. If in any respect (which is not provided against by any express provision of this Act, or by any special rule) any inspector find any quarry to which this Act applies, or any part thereof, or
40 any matter, thing, or practice in or connected with any such quarry, to be dangerous or defective, so as in his opinion to threaten or Notice to
be given by
inspectors of
causes of
danger not
provided for.

A.D. 1889. — tend to the bodily injury of any person, such inspector may give notice in writing thereof to the owner or agent of the quarry, and shall state in such notice the particulars in which he considers such quarry, or any part thereof, or any matter, thing, or practice, to be dangerous or defective, and require the same to be remedied; and 5 unless the same be forthwith remedied the inspector shall also report the same to a Secretary of State.

If the owner or agent of the quarry objects to remedy the matter complained of in the notice, he may within twenty days after the receipt of such notice, send his objection in writing, stating the 10 grounds thereof, to a Secretary of State; and thereupon the matter shall be determined by arbitration in manner provided by this Act; and the date of the receipt of such objection shall be deemed to be the date of the reference.

If the owner or agent fail to comply either with the requisition 15 of the notice, where no objection is sent within the time aforesaid, or with the award made on arbitration, within twenty days after the expiration of the time for objection or the time of making of the award (as the case may be), he shall be guilty of an offence against this Act, and the notice and award shall respectively be 20 deemed to be written notice of such offence.

Provided that the court, if satisfied that the owner or agent has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing such 25 offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

No person shall be precluded by any agreement from doing such acts as may be necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture 30 for doing such acts.

Annual
reports by
inspectors.

12. Every inspector under this Act shall make an annual report of his proceedings during the preceding year to a Secretary of State, which report shall be laid before both Houses of Parliament.

Special
reports and
formal in-
vestigation
when
directed.

13. A Secretary of State may at any time direct an inspector to 35 make a special report with respect to any accident in a quarry to which this Act applies, which accident has caused loss of life or personal injury to any person; and where it appears to the Secretary of State, either before or after such special report has been made, that a more formal investigation of the accident and of its causes 40 and circumstances is expedient, the Secretary of State may direct

such investigation to be held, and with respect to any such investigation the following provisions shall have effect: A.D. 1889.

5 (1.) The Secretary of State may appoint an inspector to hold such investigation, and may appoint any person or persons possessing legal or special knowledge to assist him in holding such investigation :

10 (2.) The inspector and any person or persons so appointed (herein-after called the court) shall (unless otherwise directed by the Secretary of State) hold the investigation in open court, in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling them to make the report in this section mentioned :

15 (3.) The court shall have for the purpose of such investigation all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers ; namely,

20 (a.) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose :

25 (b.) They may, by summons under their hands, require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make :

(c.) They may require the production of all books, papers, and documents which they consider important for the said purpose :

30 (d.) They may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination :

35 (e.) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before a court of record ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who on request, under the hands of the inspector, shall ascertain and certify the proper amount of such expenses :

40 (4.) The court holding an investigation under this section shall make a report to the Secretary of State, stating the causes of

A.D. 1889.

the accident and its circumstances, and adding any observations which the court think right to make :

(5.) *All expenses incurred in and about an investigation under this section shall be deemed to be part of the expenses of the Secretary of State in the execution of this Act :* 5

(6.) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this section, or prevents or impedes such court in the 10 execution of their duty, shall for every such offence be liable to a fine not exceeding *five pounds*, and in the case of a failure to comply with a requisition for making any return or producing any document not exceeding *two pounds* for every day that such failure continues. 15

The Secretary of State may cause any special report or report of a court under this section to be made public at such time and in such manner as he may think fit.

Arbitration.

Provisions
as to arbi-
trations.

14. With respect to arbitrations under this Act, the following 20 provisions shall have effect :

(1.) The parties to the arbitration are in this section deemed to be the owner or agent of the quarry on the one hand, and an inspector of quarries (on behalf of the Secretary of State) on the other : 25

(2.) Each of the parties to the arbitration may, within twenty-one days after the date of the reference, appoint an arbitrator :

(3.) No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is interested in the quarry to which the arbitration relates : 30

(4.) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of such other party :

(5.) The death, removal, or other change in any of the parties to 35 the arbitration shall not affect the proceedings under this section :

(6.) If within the said twenty-one days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in 40 difference, and in such case the award of the single arbitrator shall be final :

A.D. 1889.

- (7.) If before an award has been made any arbitrator appointed by either party die or become incapable to act, or for fourteen days refuse or neglect to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and if he fail to do so within fourteen days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matters in difference, and in such case the award of such single arbitrator shall be final:
- (8.) In either of the foregoing cases where an arbitrator is empowered to act singly, upon one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had been made:
- (9.) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as herein-after mentioned:
- (10.) The arbitrators, before they enter upon the matters referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ:
- (11.) If the umpire die or become incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place:
- (12.) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire shall be appointed by the chairman of the general or quarter sessions of the peace within the jurisdiction of which the quarry is situate:
- (13.) The decision of every umpire on the matters referred to him shall be final:
- (14.) If a single arbitrator fail to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place:
- (15.) The arbitrators and their umpire, or any of them, may examine the parties and their witnesses on oath; they may also consult any counsel, engineer, or scientific person whom they may think it expedient to consult:

[117.]

B 2

A.D. 1889.

- (16.) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State, and together with the costs of the arbitration and award shall be paid by the parties or one of them according as the award may direct. Such costs may be taxed by a master of one of 5 Her Majesty's superior courts, who, on the written application of either of the parties, shall ascertain and certify the proper amount of such costs. *The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act.* The amount, if any, payable by the 10 owner or agent, may in the event of nonpayment be recovered in the same manner as fines under this Act:
- (17.) Every person who is appointed an arbitrator or umpire under this section shall be a practical mining engineer or a person accustomed to the working of quarries, but when an 15 award has been made under this section the arbitrator or umpire who made the same shall be deemed to have been duly qualified as provided by this section.

Coroners.

Coroners
inquests on
deaths from
accidents in
quarries.

15. With respect to coroners inquests on the bodies of persons 20 whose death may have been caused by explosions or accidents in quarries to which this Act applies, the following provisions shall have effect:

- (1.) Where a coroner holds an inquest upon a body of any person whose death may have been caused by any explosion or 25 accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn such inquest unless an inspector, or some person on behalf of a Secretary of State, is present to watch the proceedings:
- (2.) The coroner, at least four days before holding the adjourned 30 inquest, shall send to the inspector of the district notice in writing of the time and place of holding the adjourned inquest:
- (3.) The coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof: 35
- (4.) If an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest not less than forty-eight hours before the time of holding the same, it shall not be imperative on him to adjourn 40 such inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn:

(5.) An inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner : A.D. 1889.

5 (6.) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the quarry appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or default :

10 (7.) Any person having a personal interest in or employed in or in the management of the quarry in which the explosion or accident occurred shall not be qualified to serve on the jury empannelled on the inquest ; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury :

15 (8.) Any relative of any person whose death may have been caused by the accident with respect to which the inquest is being held shall be at liberty to attend in person or by agent and to examine any witness, subject nevertheless to the order of the coroner.

20 Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

PART II.

25 *General Rules.*

16. The following general rules shall, so far as may be reasonably practicable, be observed in every quarry : General rules.

Rule 1. In quarries where more than fifty persons are employed no person shall act as the practical manager unless he has had at least five years practical experience of the working of a quarry. Qualification of practical managers.

Rule 2. Any explosive substance shall only be used in the quarry as follows : Use of explosives.

(a.) It shall not be stored in the quarry, except at points to be approved of in writing by the inspector :

35 (b.) It shall be conveyed to the quarry only in such packages as by the Explosives Act, 1875, or any Act amending the same, are authorised to be employed for the packing of explosives for conveyance, and shall be made use of in the quarry only from such packages : Provided that a quantity of explosives exceeding five pounds shall in no case be conveyed in any but

40

A.D. 1889.

a double package of the construction directed by the Explosives Act, 1875, in the case of double packages; and that for quantities of explosives not exceeding five pounds the package shall consist of a secure case or canister:

(c.) In charging holes for blasting with other explosives than 5
gunpowder an iron or steel tool shall not be used, but wooden
rammers only shall be used for pushing in or ramming down
explosives, and the first, second, and third layers of tamping.
No explosive shall be rammed with violence, or forcibly pressed
into the hole: 10

(d.) A shot that has missed fire, or a hole charged with powder
or any other explosive, shall not be unrammed or bored, or
picked out.

Security of
top and sides
of quarry.

Rule 3. Every working place or travelling road shall be made
and kept secure, and a person shall not, except for the purpose of 15
examining or making them secure, travel or work in such travelling
road or working place which is not so made secure.

Fencing
sides of
bridges.

Rule 4. The sides of every bridge or gangway in or about the
quarry shall, if dangerous, be properly fenced.

Fencing of
quarries.

Rule 5. The outside or top of every working quarry and the top 20
of every shaft shall, if dangerous, be securely fenced.

Ladders.

Rule 6. A ladder permanently used for the ascent or descent of
persons in the quarry shall not be fixed in a vertical or overhanging
position, and shall be inclined at the most convenient angle, and
every such ladder shall have substantial platforms at intervals of 25
not more than twenty yards.

Attendance
of engine-
man.

Rule 7. In any quarry which is usually entered by means of
machinery, a competent male person, not less than eighteen years
of age, shall be appointed for the purpose of working the machinery
which is employed in lowering and raising persons, therein, and 30
shall attend for the said purpose during the whole time that any
person is employed below ground in the quarry.

Where the machinery is worked by an animal, the person under
whose direction the driver of the animal acts, shall for the purposes
of this section be deemed to be the person in charge of the 35
machinery, but such driver shall not be under twelve years of
age.

Breaks.

Rule 8. There shall be attached to every machine which is self-
acting, or worked by steam, water, or mechanical power, and used
for lowering, raising, or carrying persons, such flanges or horns on 40
the drum, and if the drum is conical such other appliances as may

be sufficient to prevent the rope from slipping, and also an adequate break, and a proper indicator which shows to the person who works the machine the position of the cage or load in the shaft or on the incline or plane. A.D. 1889.

- 5 Rule 9. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the quarry shall be kept securely fenced. Fencing machinery.

- Rule 10. Each steam boiler, whether separate or one of a range, shall have attached to it a proper safety valve, and also a proper steam gauge and water gauge to show respectively the pressure of steam and the height of water in the boiler. Safety valves and gauges for boilers.

- Rule 11. No person shall wilfully damage, or without proper authority remove or render useless, any fencing, chain, flange, horn, break, indicator, ladder, platform, steam gauge, water gauge, safety valve, or other appliance or thing provided in any quarry in compliance with this Act. Wilful damage.

- Rule 12. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act, or with special rules. Observance of directions.

- 20 Rule 13. Every person employed in or about the quarry who notices any danger shall immediately report the same to such person and in such manner as shall be prescribed by special rules. Notifying danger.

Every person who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Act.

Special Rules.

17. The owner or agent of any quarry to which this Act applies may, if he think fit, transmit to the inspector of the district, for approval by a Secretary of State, rules (referred to in this Act as special rules) for the conduct and guidance of the persons acting in the management of such quarry or employed in or about the same, so as to prevent dangerous accidents, and to provide for the safety and proper discipline of the persons employed in or about the quarry, and such special rules, when established, shall be signed by the inspector who is inspector of the district at the time such rules are established, and shall be observed in and about every such quarry in the same manner as if they were enacted in this Act. Special rules.

If any person who is bound to observe the special rules established for any quarry acts in contravention of or fails to comply with

A.D. 1889. any of such special rules, he shall be guilty of an offence against this Act.

Establish-
ment of
special rules.

18. The proposed special rules, together with a printed notice specifying that any objection to such rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the quarry to the inspector of the district, at his address, stated in such notice, shall, during not less than two weeks before such rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for the information of persons employed in the quarry, and a certificate that such rules and notice have been so posted up shall be sent to the inspector with the rules signed by the person sending the same.

If the rules are not objected to by the Secretary of State within forty days after their receipt by the inspector they shall be established.

Secretary of
State may
object to
special rules.

19. If the Secretary of State is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the quarry, or for the safety of the persons employed in or about the quarry, or are unreasonable, he may, within forty days after the rules are received by the inspector, object to the rules, and propose to the owner or agent in writing any modifications in the rules by way either of omission, alteration, substitution, or addition.

If the owner or agent do not, within twenty days after the modifications proposed by the Secretary of State are received by him, object in writing to them, the proposed special rules, with such modifications, shall be established.

If the owner or agent sends his objection in writing within the said twenty days to the Secretary of State, the matter shall be referred to arbitration, and the date of the receipt of such objection by the Secretary of State shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

Amendment
of special
rules.

20. After special rules are established under this Act in any quarry, the owner or agent of such quarry may from time to time propose in writing to the inspector of the district for the approval of a Secretary of State any amendment of such rules or any new special rules, and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as near as may be, as they apply to the original rules.

A Secretary of State may from time to time propose in writing to the owner or agent of a quarry in which there are no special rules, any special rules, and to the owner or agent of a quarry in which there are special rules, any new special rules, or any amendment to such special rules, and the provisions of this Act with respect to a proposal of the Secretary of State for modifying the special rules transmitted by the owner or agent of a quarry shall apply to all such proposed special rules, new special rules, and amendments in like manner, as near as may be, as they apply to such proposals.

A.D. 1889.

21. For the purpose of making known the special rules (if any) and the provisions of this Act to all persons employed in and about each quarry to which this Act applies, an abstract of this Act supplied, on the application of the owner or agent of the quarry, by the inspector of the district on behalf of a Secretary of State, and an entire copy of the special rules (if any) shall be published as follows :

Publication
of rules.

(1.) The owner or agent of such quarry shall cause such abstract and rules (if any), with the name and address of the inspector of the district, and the name of the owner or agent appended thereto, to be posted up in legible characters, in some conspicuous place at or near the quarry where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, shall cause them to be renewed with all reasonable despatch :

(2.) The owner or agent shall supply a printed copy of the abstract and the special rules (if any) gratis to each person employed in or about the quarry who applies for such copy at the office at which the persons immediately employed for such owner or agent are paid :

(3.) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

If any owner or agent fail to act in compliance with this section he shall be guilty of an offence against this Act, but the owner or agent shall not be deemed guilty if he prove that he has taken all reasonable means, by enforcing the observance of this section, to prevent such non-compliance.

22. Every person who pulls down, injures, or defaces any proposed special rules, notice, abstract, or special rules when posted up in pursuance of the provisions of this Act with respect to special

Punishment
for defacing
notices.

A.D. 1889 — rules, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

Certified
copy of
special rules
to be
evidence.

23. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which for the time being are established under this Act in any quarry, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules and of the fact that they are duly established under this Act, and have been signed by the inspector.

Penalties.

10

Penalty for
offences
against Act.

24. Every person who is guilty of an offence against this Act shall be liable to a fine not exceeding, if he is an owner or agent, *five pounds*, and if he is any other person *one pound*, for each offence; and if an inspector has given written notice of any such offence, to a further penalty not exceeding *one pound* for every day 15 after such notice that such offence continues to be committed.

Where an offence for which the owner or agent of a quarry is liable to a fine under this Act has been in fact committed by some other person employed in or about the quarry, such other person shall be liable to the same fine as if he were the owner or agent. 20

Summary
proceedings
for offences,
penalties, &c.

25. All offences and fines under this Act, and all money and costs by this Act directed to be recovered as fines, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

General pro-
visions as to
summary
proceedings.

26. In every part of the United Kingdom the following 25 provisions shall have effect:

1. Any complaint or information made or laid in pursuance of this Act shall be made or laid within one month from the time when the matter of such complaint or information respectively arose: 30
2. The owner or agent may, if he thinks fit, be sworn and examined as an ordinary witness in the case where he is charged in respect of any contravention or non-compliance by another person:
3. The court shall, if required by either party, cause minutes of 35 the evidence to be taken and preserved:
4. A court of summary jurisdiction shall not impose a penalty under this Act exceeding in the aggregate *fifty pounds*.

Appeal to
quarter
sessions.

27. If any person feel aggrieved by any conviction made by a court of summary jurisdiction on determining any information 40

under this Act, by which conviction a fine amounting to or exceeding one half the maximum fine is adjudged, the person so aggrieved may appeal therefrom to a court of quarter sessions in manner provided by the Summary Jurisdiction Acts. A.D. 1889.

5 **28.** In Scotland the following provisions shall have effect :

Summary
proceedings
for offences
in Scotland.

10 (1.) The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted of two or more justices of the peace sitting as judges in a justice of the peace court, or of the sheriff or some other magistrate, or officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace, and sitting alone or with others at some court or other place appointed for the administration of justice :

15 (2.) All jurisdictions, powers, and authorities necessary for the court of summary jurisdiction under this Act are hereby conferred on that court :

20 (3.) Every person found liable under this Act in any penalty, or to pay any money or costs by this Act directed to be recovered as penalties, shall be liable in default of immediate payment to be imprisoned for a term not exceeding three months, and the conviction and warrant may be in the form of No. 3 of Schedule K. of the Summary Procedure Act, 1864 :

27 & 28 Vict.
c. 53.

25 (4.) An appeal shall not lie from any conviction made by a sheriff, save to the next circuit court, or where there are no circuit courts to the High Court of Justiciary at Edinburgh, in the manner prescribed by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same, as relates to appeals in matters criminal, and by and under the rules, limitations, conditions, and restrictions contained in the said provisions.

35 **29.** A person who is the owner or agent of any quarry to which this Act applies, or the father, son, or brother of such owner or agent, shall not act as a court or member of a court of summary jurisdiction in respect of any offence under this Act.

Owner of
quarry not
to act as
justice, &c.
in proceed-
ings under
this Act.

30. Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so that no person be punished twice for the same offence.

Saving for
proceedings
under other
Acts.

40 If the court before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise,

A.D. 1889. the court may adjourn the case to enable such proceedings to be taken.

Application
of fines.

31. Where a fine is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act which has occasioned loss of life or personal injury, the Secretary of State may (if he think fit) direct such fine to be paid to or distributed among the persons injured, and the relatives of any persons whose deaths may have been occasioned by such explosion, accident, or offence, or among some of them :

Provided that—

10

(1.) Such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence :

(2.) The fact of such payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on such explosion, accident, or offence :

Save as aforesaid,

All fines recovered in England or Scotland under this Act shall be paid into the receipt of Her Majesty's Exchequer, and shall be carried to the Consolidated Fund :

14 & 15 Vict.
c. 90.

All fines recovered in Ireland under this Act shall be applied in manner directed by the Fines Act (Ireland), 1851, and any Act amending the same.

Miscellaneous.

25

As to ques-
tion whether
quarry is a
quarry or a
mine.

32. If any question arises whether a quarry is a quarry or a mine such question shall be referred to a Secretary of State, whose decision thereon shall be final.

Power of
Secretary of
State to re-
voke orders.

33. Any order made or exemption granted by a Secretary of State under this Act may be from time to time revoked or altered either unconditionally or subject to conditions by a Secretary of State.

Service of
notices.

34. All notices under this Act shall be in writing or print, or partly in writing and partly in print, and all notices and documents required by this Act to be served or sent by or to an inspector or Secretary of State may be either delivered personally, or served and sent by post by a prepaid letter, and if served or sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post ; and in proving such service or sending,

it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post. A.D. 1889.

35. In this Act, unless the context otherwise requires,—

Interpre-
tation of
terms.

5 “Quarry” means any place in which persons work in getting slate, stone coprolites, or other minerals, clay and brick earth excepted; and all slate quarries now worked under the Metal-
liferous Mines Act, and every excavation that is being made for
10 commencing or opening any quarry, and all the shafts, levels, planes, works, machinery, tramways, and sidings, whether below ground or above ground, in and adjacent to a quarry and any such excavation, and belonging to the quarry:

15 “Owner” when used in relation to any quarry means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any quarry, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a quarry, or is merely the proprietor of a quarry subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil and not owner of the minerals of the quarry:

20 “Agent” when used in relation to any quarry means any person having, on behalf of the owner, care or direction of any quarry, or of any part thereof:

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State:

25 “The Treasury” means the Commissioners of Her Majesty’s Treasury:

“Boy” means a boy under the age of sixteen years:

“Girl” means a girl under the age of sixteen years:

“Woman” means a female of the age of sixteen years or upwards.

30 **36.** In the application of this Act to Scotland—

Application
of Act to
Scotland.

(1.) The term “chairman of quarter sessions” means the sheriff of the county:

(2.) The term “sheriff” includes “sheriff substitute”:

35 (3.) The Queen’s and Lord Treasurer’s Remembrancer shall perform the duties of a Master of one of the superior courts under this Act:

(4.) Notices of explosions, accidents, and loss of life, or personal injury shall be deemed to be sent to the inspector of the district on behalf of the Lord Advocate:

40 (5.) Section sixteen of the Public Health (Scotland) Act, 1867, shall be substituted for section ninety-one of the Public Health Act, 1875.

30 & 31 Vict.
c. 100.

A.D. 1889.

Application
of Act to the
Isle of Man.

37. This Act shall apply to the Isle of Man, with the following modifications :

- (1.) The term " chairman of quarter sessions " means the governor, lieutenant-governor, or deputy governor of the said Isle for the time being : 5
- (2.) The clerk of the rolls shall perform the duties of a master of one of the superior courts under this Act :
- (3.) The law of the said Isle as to the abatement or removal of nuisances affecting the health of Her Majesty's subjects shall be substituted for section ninety-one of the Public Health Act, 10 1875.

Repeal.

38. The following paragraph in part two of the Fourth Schedule to the Factory and Workshop Act, 1878, is hereby repealed without prejudice to anything done or suffered, or to any proceeding pending at the passing of this Act (namely) : 15

- " (25.) Quarries, that is to say, any place not being a mine in which persons work in getting slate, stone, coprolites, or other minerals."

Quarries Regulation.

A

B I L L

For the Regulation of Quarries.

*(Prepared and brought in by
Mr. Broadhurst, Mr. Childers, Mr. Thomas
Ellis, Mr. Bryn Roberts, Mr. William Abraham
and Mr. Rathbone.)*

*Ordered, by The House of Commons, to be Printed,
26 February 1889.*

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[Bill 117.]

A

B I L L

TO

Compel Railway Companies to print on Tickets issued to A.D. 1889.
Passengers the Fare charged.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. From and after the *first day of January one thousand eight hundred and ninety*, every passenger ticket issued by any railway company in the United Kingdom shall bear upon its face, printed in legible characters, the fare chargeable for the journey for which such ticket is issued. Passenger ticket to have fare printed thereon.
- 10 2. Any railway company issuing any passenger ticket which does not bear upon its face the fare chargeable as aforesaid shall be liable to a penalty not exceeding *forty shillings* for every ticket so issued, to be recovered on summary conviction, and it shall be the duty of the Board of Trade to enforce such penalty. Penalty.
- 15 3. This Act may be cited as the Railway Companies (Passenger Tickets) Act, 1889. Short title.

Railway Companies
(Passenger Tickets).

A

B I L L

To compel Railway Companies to print
on Tickets issued to Passengers the
Fare charged.

(*Prepared and brought in by*
Mr. Causton, Mr. Howell, Sir John Lubbock,
and Mr. Winterbottom.)

Ordered, by The House of Commons, to be Printed,
30 May 1889.

PRINTED BY EYRE AND SPOTTISWOODE
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

And to be purchased, either directly or through any Bookseller, from
EYRE and SPOTTISWOODE, East Harding Street, Fleet Street, E.C.
and 33, Abchurch Lane, Westminister, S.W.; or
ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh or
HODGES, FRODIP, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 1d.]

[Bill 251.]

A

B I L L

TO

Relieve Shareholders in Railway and other Companies from A.D. 1889.
the Disqualification Penalties for acting as Justices at
Licensing Sessions.

WHEREAS it is expedient to amend the law which declares
that no justice shall act at a licensing sessions or under any
of the Intoxicating Liquors Licensing Acts who holds any share
in any company which is a common brewer, distiller, maker of
5 malt for sale, or retailer of malt or any intoxicating liquor in the
licensing district or district adjoining to that in which such justice
usually acts.

Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
10 Temporal, and Commons, in this present Parliament assembled, and
by the authority of the same, as follows :

1. From and after the *passing of this Act*, section sixty of the
Act of the session holden in the thirty-fifth and thirty-sixth years
of Her Majesty, chapter ninety-four, is hereby repealed, so far as it
15 relates to a railway or other shareholder, except so far as that he
shall not vote or act as regards any station or other licensed
premises in which the company in which he is a shareholder is
interested. Repeal of the
disqualifi-
cation of
certain
shareholders
for acting as
justices at
licensing
sessions.

2. Section four of the Act of session fifth and sixth Victoria, Repeal.
20 chapter forty-four, is hereby repealed.

3. This Act may be cited as the Railway Shareholders (Licensing Short title.
Sessions) Act, 1889.

[Bill 172.]

Railway Shareholders (Licensing Sessions).

A

B I L L

To relieve Shareholders in Railway and other Companies from the Disqualification Penalties for acting as Justices at Licensing Sessions.

*(Prepared and brought in by
Mr. Macaire, Mr. Hermon-Hodge, Mr. Fielden,
and Mr. Grotian.)*

*Ordered, by The House of Commons, to be Printed,
26 March 1889.*

PRINTED BY EYRE AND SPOTTISWOODE.
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

And to be purchased, either directly or through any Bookseller, from
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and 32, Abingdon Street, Westminster, S.W.; or
ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FIGGINS, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 3d.]

[Bill 172.]

A
B I L L

TO

Provide for the better advertising by Railway Companies the Names of Stations within the limits of Railway Stations in Great Britain. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. On and after the *first day of November one thousand eight hundred and eighty-nine* it shall be obligatory on every railway company to provide each and every of their respective stations used for passenger traffic in Great Britain with at least two sign boards on both the up and down lines placed in conspicuous places along-
10 side the platform, on which shall be painted in plain letters, equal in size to the largest letters used in any advertisement displayed within the same station, the name of the station where the board is displayed.

Two sign boards with names of stations to be conspicuously displayed on up and down lines.

- 15 The lengths of the platforms at a station shall define the limits of a station.

- 20 2. It shall not be lawful after the said *first day of November* for any railway company to exhibit or allow any other person to exhibit any advertisement at any railway station within ten feet of the name of any such railway station painted on any such board for the purpose of notifying to the public the name of such station, the said distance to be measured from the nearest point of the said advertisement to the nearest point of the name of the station ; and any railway company exhibiting or allowing to be exhibited any
25 advertisement within the prescribed distance shall for each offence be liable to a penalty of *five pounds*, and a further sum of *forty shillings* for every day during the continuance of such offence, which penalty may be recovered in a court of summary jurisdiction.

No advertisements to be exhibited within ten feet of the name of a railway station.

3. This Act may be cited as the *Railway Stations Names Act*, Short title.
1889.

[Bill 296.]

Railway Stations (Names).

A

B I L L

To provide for the better advertising by
Railway Companies the Names of
Stations within the limits of Railway
Stations in Great Britain.

(Prepared and brought in by
*Mr. E. Sweetenham, Mr. Burdett-Coutts, and
Mr. Seager Hunt.*)

*Ordered, by The House of Commons, to be Printed,
28 June 1889.*

PRINTED BY HYBE AND SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
And to be purchased, either directly or through any Bookseller, from
*HYBE & SPOTTISWOODE, East Harding Street, Fleet Street, E.C.,
and 32, Abingdon Street, Westminster, S.W.; or
ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGINS, FIDGINS, & CO, 104, Grafton Street, Dublin.*

[*Price 1d.*]

[Bill 296.]

A
B I L L

TO

Amend the Law relating to the Rating of Hereditaments
containing Machinery.

A.D. 1889.

WHEREAS questions have from time to time arisen as to how far machinery is to be taken into consideration in estimating the rateable value of the premises in which any trade, business, or manufacture is carried on, and it is expedient to amend the law relating thereto :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. From and after the *passing of this Act*, in estimating for the purpose of assessment to the poor rate, county rate, borough rate, or any other rate leviable upon property rateable to the relief of the poor, the rateable value of any tenement or premises occupied for any trade, business, or manufacturing purposes, the annual value of the machinery in this section specified upon such tenement or premises shall be taken into consideration ; that is to say,—

Definition of
machinery to
be rated.

1st. Water wheels, steam, gas, air, and electric engines, steam boilers, and all other fixed motive powers and the fixed appurtenances thereof ;

2nd. Shafts, wheels, drums, and other fixed power machinery which transmits the action of motive power to other machinery, fixed or loose.

2. Save as in the last section provided, no machinery, whether attached to the tenement or premises or not, shall be taken into consideration in estimating such rateable value.

Exemption
of other ma-
chinery and
plant from
rating.

3. Nothing in this Act contained shall apply to the rating of waterworks, gasworks, coal mines, or properties subject to the provisions of the Rating Act, 1874.

Exemption of
properties sub-
ject to Rating
Act, 1874.

[Bill²¹.]

A.D. 1889.

Extent of
Act.

Short title. 1889.

4. This Act shall not apply to Scotland or Ireland.**5.** This Act may be cited as the Rating of Machinery Act,

Rating of Machinery.

A

B I L L

To amend the Law relating to the Rating
of Hereditaments containing Machinery.

(*Prepared and brought in by*
Mr. Tomlinson, Sir William Houldsworth,
Sir Bernard Samuelson, Sir Frederick Mappin,
Mr. Mowbray, and Mr. Winterbottom.)

Ordered, by The House of Commons, to be Printed,
22 February 1889.

PRINTED BY EYRE AND SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
And to be purchased, either directly or through any Bookseller, from
EYRE and SPOTTISWOODE, East Harding Street, Fleet Street, E.C.,
and 32, Abingdon Street, Westminster, S.W.; or
ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, Figgis, & Co., 104, Grafton Street, Dublin.

[*Under 1 oz. Price 4d.*]

[Bill 21.]

Registration of Assurances (Ireland) Bill.

This Bill, and the Local Registration of Title (Ireland) Bill, are intended to place the entire system of land registry in Ireland on a satisfactory basis, with special reference to recent legislation, and to the recent multiplication of the number of small proprietors. A.D. 1889.

There has been established in Ireland since 1708 a general Registry of Deeds, in its main features similar to the systems which exist in Scotland, Yorkshire, and Middlesex. It is not proposed to disturb this system, which is generally accepted as satisfactory, but to develop, simplify, and improve it, in accordance with recommendations made by Royal Commissions, and Parliamentary and Treasury Committees on different occasions during the past half century.

Leaving to the Local Registration of Title Bill the work of providing for the smaller proprietors in Ireland a system of local registration of title, the present Bill deals with the existing general Registry of Deeds, in regard to which its main objects are:—

1. To consolidate the numerous statutes relating to the registration of deeds, judgments, and judgment-mortgages in Ireland, which have been passed from the reign of Queen Anne to the present time.

2. To simplify and cheapen the practice as regards registration by dispensing with certain useless and expensive processes which have been retained from the earlier statutes, and by adopting the ordnance survey as the basis of registration.

3. To afford complete safety to purchasers, by bringing within the range of the registry certain classes of dealings with land, against which no protection is now afforded; by excluding the equitable doctrines of notice as regards registered instruments; and by affording protection to contracts by means of caveats.

4. To consolidate with the registry of deeds the existing registry of judgments; providing for the re-registration in the registry of deeds of the class of judgments which now operate by way of general charge on the land of the judgment debtor, such re-registration to be effected as against specified lands.

5. To afford protection to the public and to solicitors against the consequences of possible technical errors, by providing that the

[Bill 318.]

a

A.D. 1889. — certificate of the registrar shall be conclusive evidence of registration. The cases in which registration has been held invalid are generally cases of extreme hardship, and the error has seldom been of a kind likely to mislead.

6. To provide for the regulation of office details by general rules. For this purpose it is proposed to place the office under the management of the Master of the Rolls, who fills the position of Keeper of the Public Records of Ireland.

Many clauses of this Bill are borrowed from an Act, the commencement of which was deferred until the issuing of a Treasury Minute (13 & 14 Vict. c. 72). This statute contained many valuable provisions, mainly founded on the second report of the Real Property Commission, 1832; but the system of indexes which it introduced was found to be unworkable, and it was never brought into operation. From it are taken (with certain modifications) the clauses as to the registration of orders affecting land (s. 8), of private Acts of Parliament (s. 10), of equitable mortgages and vendors' lien (ss. 12-15), of wills and intestacies (ss. 32-43), the adoption of the ordnance maps as the basis of registration (s. 48), the provisions as to notice (ss. 84, 85), and caveats (ss. 44-47).

These enactments and most of the other provisions of this Bill (with the exceptions herein-after mentioned) are in general accordance with the recommendations of a Royal Commission appointed in 1878, to inquire into the registration of deeds and judgments, which had among its legal members the Lord Chief Justice (Mr. May), the Lord Chief Baron, the Vice-Chancellor, the Right Honourable Mountiford Longfield, and other lawyers of eminence. The first report of this Commission was presented in 1879, and the second in the following year. The main points on which this Bill departs from the report of the Commission are: (1.) In retaining the system of registration by memorial, which has been in use since the establishment of the office (while simplifying the memorial, and dispensing with certain useless formalities), instead of the system recommended by the Commission, of depositing a copy of the instrument registered, with an abstract for the purpose of registration. The memorial will be so framed as to form the foundation of the indexes and books kept in the office, but the responsibility for its accuracy in such matters as the distinction between grantors and grantees for purposes of registration, will rest with the office, on which is cast the duty of comparison, and (if necessary) of amendment. (2.) In providing for the deposit of certified copies of assurances, at the option of the persons tendering them for registration. Memorials are often so framed as to afford

some kind of secondary evidence of the contents of deeds. However unsatisfactory they may be in this point of view it does not appear desirable to interfere with the usefulness of the memorial in this particular without providing a more efficient substitute for those who desire to use the registry, not merely for the purpose of giving notice of registered assurances, but as preserving evidence of their contents. (3.) In retaining the existing system of judgment mortgages, instead of providing for the immediate realization of judgments by sale of the debtor's land; a proposal which was recommended by the Commission, but which is unsuitable to the existing condition of the country. (4.) In adopting a still further simplification of proof for purposes of registration. (5.) In some matters relating to the registration of wills. The Irish Registry Acts, though providing for the registration of wills, contain no provisions for the protection of purchasers from persons claiming under unregistered wills, differing in this respect from the Yorkshire and Middlesex Acts. The Irish Act of 1850 (13 & 14 Vict. c. 72.) contained provisions for this purpose, which have been in substance adopted in the present Bill. These provisions differ in some particulars from the recommendations contained in the Report of the Royal Commission of 1878, which, however, adopts the general principle of protecting purchasers from claims under unregistered wills. (6.) In adopting from 13 & 14 Vict. c. 72. the system of registration of intestacies, with additional provisions for the protection of persons claiming under wills which may have been mislaid or suppressed. This system, since the Report of 1878, was introduced in the year 1884 into the Act consolidating and amending the law relating to the Yorkshire registry of deeds, and received the sanction of the Legislature as regards Ireland in 1850.

A.D. 1889.

Registration of Assurances (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clause.

1. Short title.
 2. Act to extend to Ireland only.
 3. Commencement of the Act.
-

PART I.

GENERAL PROVISIONS AS TO REGISTRATION.

Assurances.

4. All assurances executed after the 25th of March 1708 may be registered as herein directed.
5. Every such assurance effectual according to priority of time of registering against all other dispositions.
6. Assurances not registered fraudulent and void against assurances registered and against creditors by judgment, &c.
7. Not to extend to leases not exceeding twenty-one years, with actual possession.

Judgments, Decrees, or Orders affecting Land.

8. Judgments, decrees, or orders affecting land and orders for partition or exchange may be registered.
9. Judgments, decrees, or orders affecting land void as against purchasers, unless registered.

[Bill 318.]

b

Private Acts of Parliament.

Clause.

10. Registration of private Act of Parliament.

*Vesting of Lands under Act of Parliament ; Equitable Mortgage ;
and Vendor's lien for Purchase Money:*

11. When by any Act lands are vested upon the payment of money, &c., a memorial may be registered.
12. Equitable mortgage by deposit of deeds may be registered.
13. Lien by reason of non-payment of purchase money may be registered.
14. Registration to be affected under four preceding sections as if an assurance had been made by the person whose right, &c. in the lands shall be affected by the act, lien, &c. registered.
15. Estate or interest created by Act on payment of money, and equitable mortgage by deposit of deeds and lien for purchase money, void as against purchasers unless registered.

Judgment Mortgages.

16. Judgments obtained after 15th July 1850 not to affect lands.
17. Judgments not to affect land purchased after 15th July 1850.
18. Creditors under judgments, entered up or made after 15 July 1850, may file affidavit of ownership of lands, and register it in registry of deeds, and creditors under judgments, entered up or made on or before the said date, may file and register a like affidavit in respect of lands purchased after said date.
19. Affidavits to be made by agents, &c. Registration not invalid though affidavit be made by only one conusee.
20. Registration of affidavit to have the effect of a mortgage.
21. Validation of judgment-mortgages where error in affidavit not misleading.
22. Voluntary conveyances after judgment entered up void as against the creditor. Act not to affect provisions as to fraudulent conveyances.
23. Act not to affect execution by fieri facias.
24. Rights of judgment creditor in administration of assets preserved.
25. Priority of judgment mortgages for poor rates.

Judgments, Lis pendens, Crown Bonds, Recognizances, &c.

Clause.

26. Judgments entered up before 15th July 1850, recognizances, Crown bonds, judgments at the suit of the Crown, and lis pendens invalid as against purchasers, &c., unless registered within five years in the Registry of Judgments, or in the Registry of Deeds.
27. Rules in courts of law, and civil bill decrees for poor rate made before 15th July 1850, statutes, and acceptances of office invalid as against purchasers.
28. Memorandum for registering judgments, &c. not to be received at the Registry of Judgments.
29. Persons requiring to register judgments, &c. to lodge memorial in the Registry of Deeds.
30. No lis pendens recognizance, Crown bond, &c. to affect lands other than those specified in the memorial.
31. Registrar of Deeds to give certificates of registry, &c.

Wills and affidavits of Intestacy.

32. Registration of wills when testator dies after commencement of Act.
33. Affidavit of intestacy may be registered after six months.
34. Unregistered will void against purchasers under registered will.
35. Unregistered will void against purchasers under a registered intestacy.
36. Registration of will within two years effectual.
37. When will cannot be registered within two years persons claiming under it may obtain an order from the Court to register intestacy as disputed.
38. Registration of will while intestacy registered as disputed as effectual as if immediately after death of testator.
39. Affidavit of intestacy may be registered while intestacy registered as disputed.
40. Provisions for cases of disputed intestacy.
41. Removal of note of intestacy as disputed.
42. Cancelling registration of affidavit of intestacy when will proved.
43. Cancelling registration of will, probate of which has been revoked.

Registration of Caveats.

Clause.

- 44. Power to enter a caveat.
 - 45. Mode of entering caveats.
 - 46. Extent of protection to be afforded by caveats.
 - 47. The protection of caveats restricted to specified cases.
-

PART II.

HOW REGISTRATION SHALL BE EFFECTED.

Ordnance Maps to be the basis of Registry.

- 48. Registration to be effected against denominations upon ordnance maps.

Registration to be by Memorial.

- 49. Registration effected by delivery of memorial.
- 50. Provisions for registering full copy of assurance or disposition.

Contents of Memorial.

- 51. Contents of memorial of assurance and will.
- 52. Contents and verification of memorial of judgment, decree, or order affecting land.
- 53. Contents of memorial in other instances.
- 54. Memorial shall specify denominations on ordnance maps.

Provisional Registration in certain Cases.

- 55. Provisional registration where ordnance denominations cannot be stated.
- 56. Provisional registration of affidavit of ownership.
- 57. Provisional registration to become absolute on production of perfect memorial.
- 58. Affidavit for purpose of provisional registration.
- 59. Assurance or disposition provisionally registered may be also registered in the ordinary manner.

Registration only effectual against Lands mentioned in Memorial.

- 60. Registration only against lands specified in memorial.

Proof of Execution of Instrument Registered.

Clause.

61. Assurance duly attested may be registered within a year without proof of execution.
62. Will duly attested may be registered within two years.
63. Mode of proving the execution of assurances proposed to be registered when not so attested or executed more than a year previously.
64. Mode of proving the execution of wills when not so attested or executed more than two years previously.

Assurances or Wills more than Thirty Years Old.

65. Assurances or wills more than thirty years old may be registered under an order of the Court.

Registration of Lost Assurances or Wills.

66. Memorial of lost assurances or wills may be registered under an order of the Court.

Certificate of Solicitor.

67. Solicitor to certify correctness of memorial.

Production of Assurance to Registrar.

68. Except in certain cases the assurance or will to be registered shall be produced to the registrar.

Certificate of Registration.

69. Registrar to enter registration, and give certificate to person registering.
70. Certificate to be conclusive evidence of registration.

Proceedings when the Registrar shall refuse to accept Memorial.

71. Registrar shall refuse to accept informal memorial.
72. Where registrar refuses to accept memorial the party tendering it may apply to Court.
73. Registrar to receive memorial when so ordered by Court.

Power to compel Registration in certain cases.

Clause.

74. Any person claiming under an assurance may compel the registration thereof by application to Court.
-

PART III.

PROVISIONS FOR CANCELLING REGISTRATION.

Satisfied Mortgages and Charges.

75. Registration of satisfied mortgages and charges may be cancelled.
76. Cancelling of registration to operate as reconveyance.
77. Cancelling of registration of expired and surrendered leases.
78. Court may direct cancelling in certain cases.
79. Time of cancelling registration to be noted.
80. Cancelled registration not to be returned on searches unless expressly required.
81. Cancelling of registration of affidavit of ownership to operate as reconveyance.

Judgments, &c.

82. Lodgment of memorandum of satisfaction of judgments, &c.
83. Registrar of Deeds to enter satisfaction of judgments, &c.
-

PART IV.

PROVISIONS AS TO NOTICE, &c.

84. Priority given by Act to be enforced, notwithstanding notice, except in cases of actual fraud.
85. Purchaser for valuable consideration not to be affected by notice of uses or trusts not manifested by a registered assurance, nor by uses or trusts declared by reference to an unregistered assurance.

Clause.

86. Priority of person claiming for valuable consideration.

87. Void assurance not validated by registration.

PART V.

SEARCHES.

88. All persons may search the books and indexes kept in the office.

Common Search.

89. Any person may, upon requisition, obtain a head clerk's or common search and certificate.

---Negative Search---

90. A search and negative certificate may be obtained.

91. Requisition may be limited either as to names or period.

92. Requisition for negative search to be filed and certificate to be given.

93. Certificate to contain abstracts of memorials registered before the Act and copies of memorials registered under the Act.

94. Vendor to furnish only a negative search, with an abstract of every memorial registered before the Act, and copy of every memorial registered under the Act not excepted.

Searches for Judgments.

95. Requisitions or searches for judgments, &c. in the Registry Office.

Duplicates.

96. Requisitions for duplicate searches in Registry Office.

97. Duplicate to have the effect of original.

Requisitions.

98. Requisition by solicitors.

PART VI.

CONSTITUTION OF THE OFFICE.—STAMPS AND FEES.

Clause.

- 99. Existing registry office to be carried on under the Act.
- 100. Days and hours of business in the office.
- 101. Official staff.
- 102. Registrar not to sit in Parliament.
- 103. Officers to act in person, and not by deputy.
- 104. Office to be under the management of the registrar.

Stamps and Fees.

- 105. Fees payable in the office.
 - 106. No document to be received or used unless stamped.
-

PART VII.

GENERAL RULES, AND MISCELLANEOUS PROVISIONS.

- 107. General rules to be framed after passing of Act.
- 108. Forms and directions to be settled.
- 109. Rules for the keeping of the index.
- 110. On introduction of printing in office, rules may be altered.

Index of Judgments.

- 111. An index of judgments to be kept.
- 112. Fees for searches of index of judgments.

Extension of Time.

- 113. Extension of time may be granted for good cause.

Affidavits.

- 114. Persons before whom affidavits for purposes of Act may be sworn.
- 115. Treasury may defray expenses of completing indexes, &c.
- 116. Office copies of memorials to be received in evidence.
- 117. Punishment for forging signature required by the Act, &c.

Registrar of Judgments.

Clause.

118. Officers in Registry of Judgments.

Repeals and Savings.

119. Repeal of former Acts.

120. Priority of assurances registered under repealed Acts.

121. Act not to necessitate registration of assurances, &c. executed before its commencement, which did not then require registration.

122. Effect of registration under the Act of assurance directed to be registered under any Act of Parliament.

123. Interpretation clause.

SCHEDULE.

A
B I L L

TO

Consolidate and amend the Laws relating to the Registration of Deeds and Judgments, and to provide for the Registration of other assurances, acts, and matters affecting Land in Ireland. A.D. 1889.

WHEREAS by an Act of Parliament made in Ireland in the sixth year of the reign of Queen Anne, intituled "An Act for the Public Registering of all Deeds, Conveyances, and Wills that shall be made of any honours, manors, lands, tenements or hereditaments," a public registry office was established in the city of Dublin, and by other Acts of Parliament, made in Ireland, and by certain Acts of Parliament of the United Kingdom, various provisions have from time to time been made in respect of such registry office; and whereas it is expedient to repeal the several Acts of Parliament now in force in Ireland, in regard to the registration of deeds, conveyances, and wills, and to consolidate and amend the laws relating thereto, and to provide for the registration of other acts, instruments, and matters affecting land in Ireland, and to make certain provisions in relation to the registry of judgments in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

20 *Preliminary.*

1. This Act may be cited as the Registration of Assurances (Ireland) Act, 1889. Short title.

2. This Act shall extend to Ireland only. Act to extend to Ireland only.

3. This Act shall, except as in this Act specially provided, come into operation on the *first day of January one thousand eight hundred and ninety*, which date is in this Act referred to as the commencement of this Act. Commencement of the Act.

[Bill 318.]

A

A.D. 1889.

PART I.

GENERAL PROVISIONS AS TO REGISTRATION.

Assurances.

All assurances executed after the 25th of March 1708 may be registered as herein directed. [6 Anne, c. 2. s. 3.]

Every such assurance effectual according to priority of time of registering against all other dispositions. [6 Anne, c. 2. s. 4.]

Assurances not registered fraudulent and void against assurances registered and against creditors by judgment, &c. [6 Anne, c. 2. s. 5.]

Not to extend to leases not exceeding twenty-one years, with actual possession. [6 Anne, c. 2. s. 14.]

Judgments decrees, or orders affecting land and

4. All assurances made and executed after the *twenty-fifth day of March one thousand seven hundred and eight* for or concerning, 5 and whereby any land in Ireland may be any way affected, may, at the election of the party or parties concerned, be registered in such manner as is herein-after directed.

5. Every such assurance which shall be duly registered according to the rules and directions in this Act contained or referred to shall be deemed and taken as good and effectual, both in law and equity, according to the priority of time of registering such assurance for and concerning the lands in the memorial for the registration of such assurance mentioned or contained, according to the right, title, and interest of the person or persons so conveying 10 or assuring such lands, against all and every other assurance or disposition of the same lands, or any part thereof. 15

6. Every assurance not registered made and executed after the *twenty-fifth day of March one thousand seven hundred and eight*, of all or any of the lands mentioned in the memorial of such 20 assurance which shall be registered in pursuance of this Act, shall be deemed and adjudged as fraudulent and void, not only against such an assurance registered as aforesaid, but likewise against all and every creditor and creditors by judgment, recognizance, statute merchant or of the staple confessed, acknowledged, or 25 entered into after the *twenty-fifth day of March* aforesaid, as for and concerning all or any of the lands mentioned in the memorial of such assurance registered as aforesaid.

7. This Act shall not extend to any lease for years not exceeding *twenty-one years*, or to any assurance or disposition 30 affecting the interest demised by such lease, or any portion of the same, where the actual possession shall go along with the said lease, or with the assurance or disposition affecting such leasehold interest as aforesaid.

Judgments, Decrees, or Orders affecting Land.

35

8. Every judgment, decree, or order made after the commencement of this Act by which any estate or interest in any lands

shall be created, declared, transferred, foreclosed, or determined, or for the exchange, partition, division, or allotment of lands, and also every judgment, decree, or order of any court of competent jurisdiction by which any such judgment, decree, or order as
5 aforesaid shall be varied or reversed (all of which judgments, decrees, and orders are in this Act referred to as "orders affecting land"), shall be capable of registration under this Act in the manner herein-after provided.

A.D. 1889.

orders for partition or exchange may be registered. [13 & 14 Vict. c. 72. s. 7.]

9. Every order affecting land by this Act authorised to be
10 registered shall, as regards any lands to be affected thereby, against which any subsequent assurance or disposition shall have been duly registered, be void as against any person claiming for valuable consideration under such subsequent assurance or disposition, unless such order shall have been registered against such lands in
15 the manner directed by this Act before the registration of the subsequent assurance or disposition.

Judgments, decrees, or orders affecting land void as against purchasers, unless registered. [13 & 14 Vict. c. 72. s. 24.]

Private Acts of Parliament.

10. Every private Act of Parliament which shall be passed after the commencement of this Act, by which any lands are
20 affected, shall be capable of registration in the manner herein-after provided; and shall, as regards any lands to be affected thereby against which any subsequent assurance or disposition shall have been duly registered, be void as against any person claiming for valuable consideration under such subsequent assurance or dis-
25 position, unless such private Act of Parliament shall have been registered against such lands in the manner directed by this Act before the registration of the subsequent assurance or disposition.

Registration of private Act of Parliament. [13 & 14 Vict. c. 72. s. 8.]

Vesting of Lands under Act of Parliament; Equitable Mortgage; and Vendor's lien for Purchase Money.

30 11. In every case where the provisions of any Act of Parliament passed or to be passed have the effect of vesting lands in any person by or upon the payment of money, or by or upon any other act (other than any assurance or disposition herein-before authorised to be registered), and such lands become so vested by or
35 upon any such payment or other act made or done after the commencement of this Act, any person claiming under or by virtue of the vesting of such lands as aforesaid may register a memorial in the prescribed form, containing a reference to the Act of
[318.]

When, by any Act, lands are vested upon the payment of money, &c., a memorial may be registered. [13 & 14 Vict. c. 72. s. 10.]

A.D. 1889. Parliament and the names of the denominations upon the ordnance maps in which the lands are included, and expressing the payment or other act by or upon which such lands shall have so vested as aforesaid: Provided always, that nothing in this section contained shall be deemed to apply or have reference to the vesting of the estate of a bankrupt in the assignees or trustee of such bankrupt. 5

Equitable mortgage by deposit of deeds may be registered. [13 & 14 Vict. c. 72. s. 11.]

12. Any person claiming any interest under any equitable mortgage affecting any lands made by deposit of title deeds, without an assurance, after the commencement of this Act, may register a memorial in the prescribed form, expressing the principal sum of money secured by such equitable mortgage; or in case the total amount of the principal money secured, or to be ultimately recoverable upon such equitable mortgage, shall be limited not to exceed a given sum, the total amount of such money; or in case the money secured by such equitable mortgage shall be without any limit, that the money secured by such equitable mortgage is unlimited. 10 15

Lien by reason of non-payment of purchase money may be registered. [13 & 14 Vict. c. 72. s. 12.]

13. Where by reason of the non-payment of purchase money a vendor shall, after the commencement of this Act, have acquired a lien for such purchase money on any lands, any person claiming an interest in such lien may register a memorial in the prescribed form, containing such particulars of the conveyance by the vendor as are sufficient to identify the same, and also stating the amount of the money for which a lien is claimed. 20 25

Registration to be affected under four preceding sections as if an assurance had been made by the person whose right, &c. in the lands shall be affected by the act, lien, &c. registered. [13 & 14 Vict. c. 72. s. 13.]

14. In the several cases provided for by the four immediately preceding sections, the same entry or entries shall be made for the purposes of registration thereunder as if an assurance had been made by the person whose right or interest in the lands shall be affected by the private Act of Parliament, the vesting of the lands, the equitable mortgage, or the lien (as the case may be), and as if the lands affected by the private Act of Parliament, the vesting of the lands, the equitable mortgage, or the lien (as the case may be) had been so affected by such an assurance. 30

Estate or interest created by Act on payment of money, and equitable mortgage by deposit of deeds and lien for purchase money, void

15. When any Act of Parliament passed or to be passed contains any provisions for vesting any lands in any person by or upon the payment of money, or by or upon any other act (except any act under any bankruptcy, or an assurance or disposition herein-before authorised to be registered), and such lands become so vested by or upon any such payment or other 35 40

act (except as aforesaid) made or done after the commencement of this Act, and where any equitable mortgage affecting lands shall be made by the deposit of title deeds after the commencement of this Act, and where by reason of the non-payment
 5 of purchase money a vendor shall at any time after the commencement of this Act have acquired a lien for such purchase money on any lands, such vesting of such lands, equitable mortgage, and lien respectively shall be void as against any person claiming for valuable consideration under any subsequent
 10 assurance or disposition duly registered against the same lands, unless, in the respective case of such vesting of such lands, equitable mortgage, and lien, such memorial as is herein-before in such respective case authorised to be registered shall have been registered in the manner required by this Act before the registra-
 15 tion of the subsequent assurance or disposition.

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as against
 purchasers
 unless
 registered.
 [13 & 14 Vict.
 c. 72. s. 25.]

Judgment Mortgages.

16. No writ of elegit or writ of execution (save as herein-after mentioned) shall issue or be sued against any lands upon any judgment of any superior court, decree, or order in any court of
 20 equity, order in bankruptcy or lunacy, or judgment, rule, or order of any inferior court entered up, obtained, or made after the *fifteenth day of July one thousand eight hundred and fifty*, nor shall any lands be charged or affected by any such judgment, decree, order, or rule, save as provided by this Act.
- 25 17. Where any legal or equitable estate or interest or any disposing power in or over any lands has, under any conveyance, lease, deed, or instrument executed after the fifteenth day of July one thousand eight hundred and fifty become vested in any person as a purchaser for valuable consideration, such lands shall not be
 30 taken in execution under any writ of elegit or writ of execution (save as herein-after mentioned) to be sued upon any judgment which before the fifteenth day of July one thousand eight hundred and fifty has been entered up in any of Her Majesty's superior courts at Dublin, or obtained in any inferior court of record, against such
 35 person, or any decree, order, or rule which has been made before the said day for payment by such person of any sum of money, costs, charges, or expenses, and no receiver shall be appointed over such lands in respect of any money due upon such judgment, decree, order, or rule, nor shall such judgment, decree, order, or rule
 40 operate as a charge upon or in anywise charge or affect such lands, save as provided by this Act: Provided always, that this enactment

Judgments
 obtained
 after
 15th July
 1850 not to
 affect lands.
 [13 & 14 Vict.
 c. 29. s. 1.]

Judgments
 not to affect
 land pur-
 chased after
 15th July
 1850.
 [13 & 14 Vict.
 c. 29. s. 2.]

A.D. 1889. — shall not take away or affect any rights or remedies which might have been had against or in relation to such lands, if the Act of the session of the thirteenth and fourteenth years of the reign of her present Majesty, chapter twenty-nine, intituled "An Act to amend the laws concerning judgments in Ireland," had not been 5 passed, in respect of any estate, interest, right, title, or power in, to, or over the same, which may have been in such person before the said day.

Creditors under judgments, &c. entered up or made after 15 July 1850, may file affidavit of ownership of lands, and register it in registry of deeds, and creditors under judgments, entered up or made on or before the said date may file and register a like affidavit in respect of lands purchased after said date. [13 & 14 Vict. c. 29. s. 6.]

18. Where any judgment shall have been entered up after the fifteenth day of July, one thousand eight hundred and fifty, in any of 10 Her Majesty's superior courts at Dublin or in the High Court, or any decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy, to which the effect of a judgment in one of the superior courts of common law is given by an Act passed in the session of Parliament held in the third and 15 fourth years of the reign of Her present Majesty, chapter one hundred and five, the title of which commences with the words "An Act for abolishing arrest on mesne process" shall have been made after the said day, or any judgment, rule, or order shall have been obtained or made in or by any inferior court of record 20 after the said day, and shall under the provisions of the said Act of the session of the third and fourth years of Her Majesty, have been removed into one of Her Majesty's superior courts of record at Dublin or the High Court, and the creditor under any such judgment, decree, order, or rule shall know or believe that the person against whom 25 such judgment, decree, order, or rule is entered up, obtained, or made, is seised or possessed at law or in equity of any lands, or has any disposing power over any lands which he may without the assent of any other person exercise for his own benefit, and where any judgment has been entered up before the said day in any of Her 30 Majesty's superior courts at Dublin, or any decree or order in any court of equity, rule in any court of common law, or order in bankruptcy or lunacy to which the effect of a judgment in one of the superior courts of common law is given by the said Act of the session of the third and fourth years of the reign of Her Majesty has been 35 made before the said day, or any judgment, order, or rule has been obtained or made in or by any inferior court of record before the said day, and has been or shall be, under the provisions of the said Act of the session of the third and fourth years of Her Majesty, removed into one of Her Majesty's superior courts at Dublin or 40 the High Court, and the creditor under any such judgment, decree, order, or rule, shall know or believe that the person against

whom such judgment, decree, order, or rule is entered up, obtained, or made, is seised or possessed as aforesaid of, or has such disposing power as aforesaid over any lands which, by virtue of this Act, are exempted from being taken in execution under any writ of execution to be issued upon such judgment, decree, order, or rule, it shall be lawful for such creditor, at any time and from time to time after the entering up or removal of such judgment in or into such superior court or the High Court, or the making of such decree, order, or rule, or the passing of this Act, whichever shall last happen, to make and file in the High Court an affidavit (in this Act called an "affidavit of ownership"), stating the name or title of the cause, action, or matter, and the court or division in which such judgment, decree, order, or rule has been entered up, obtained, or made, and the date of such judgment, decree, order, or rule, and the names, and the usual or last known place of abode, and the title, trade, or profession of the plaintiff (if there be such), and of the defendant or person whose estate is intended to be affected by the registration, as herein-after mentioned, of such affidavit, and the amount of the debt, damages, costs, or moneys recovered or ordered to be paid by such judgment, decree, order, or rule, and stating that, to the best of the knowledge and belief of the deponent, the person against whom such judgment, decree, order, or rule is entered up, obtained, or made is at the time of the swearing of such affidavit so seised or possessed, or has such disposing power as aforesaid, of or over such lands, and such affidavit shall specify the county and barony, or the city and parish, in which the lands to which the affidavit relates are situate, and where such lands lie in two or more counties or baronies, or parishes or streets, or partly in one barony, parish, or street and partly in another, the same shall be distinctly stated in such affidavit; and it shall be lawful for the creditor making such affidavit to register the same in the registry of deeds, by depositing an office copy of such affidavit; and such affidavit shall be entered in the books and indexes kept in the registry, in like manner as if the same were a memorial of an assurance; and for the purpose of such entries the creditor under such judgment, decree, order, or rule shall be deemed the grantee, and the debtor thereunder shall be deemed the grantor; and the amount of the debt, damages, costs, or moneys recovered or ordered to be paid thereby shall be deemed the consideration; and the like fee shall be paid on such registration as in the case of registering an assurance.

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Affidavits to
be made by
agents, &c.
Registration
not invalid
though affi-
davit be
made by only
one conusee.
[21 & 22 Vict.
c. 105. s. 3.]

19. In the construction of this Act the word "creditor" shall mean and include any number of persons jointly interested as creditors in relation to such judgment, decree, order, or rule, and shall also mean and include all joint stock banking and other companies and corporate bodies; and every affidavit or oath 5 necessary to be made by any creditor may be made by any one or more of such persons so jointly interested, the public officer authorised to sue or be sued or to make oaths on behalf of such joint stock company, or by the secretary, deputy secretary, or law agent of any corporate body; and in any affidavit made or to be made 10 by any such public officer, secretary, deputy secretary, or law agent, a description of the town or place where the business or principal office of such joint stock company or corporate body is carried on or situated shall be deemed to be a sufficient description of the usual place of abode of the deponent, within the meaning of 15 this Act; and where any creditor by judgment, decree, order, or rule is authorised to file an affidavit as aforesaid, and where, from the absence of such creditor or other reasonable cause, such affidavit cannot be made by such creditor, it may be made by such person as the court shall direct, and no registration of any judgment shall 20 be deemed invalid by reason of the affidavit being or having been made by one only of several conusees.

Registration
of affidavit
to have the
effect of a
mortgage.
[13 & 14 Vict.
c. 29. s. 7.]

20. The registration as aforesaid of such affidavit shall operate to transfer to and vest in the creditor registering such affidavit all the lands mentioned therein, for all the estate and interest of which 25 the debtor mentioned in such affidavit shall at the time of such registration be seised or possessed at law or in equity, or might at such time create by virtue of any disposing power which he might then without the assent of any other person exercise for his own benefit, but subject to redemption on payment of the money owing 30 on the judgment, decree, order, or rule mentioned in such affidavit; and such creditor, and all persons claiming through or under him, shall, in respect of such lands, or such estate or interest therein as aforesaid, have all such rights, powers, and remedies whatsoever as if an effectual conveyance, assignment, appointment, or other 35 assurance to such creditor of all such estate or interest, but subject to redemption as aforesaid, had been made, executed, and registered at the time of registering such affidavit.

Validation of
judgment
mortgages
where error

21. If there shall be any error or misdescription in an affidavit of ownership registered after the *passing of this Act*, the Court, 40 on the application in the prescribed manner of the creditor or any

person claiming from or under him, may, in its discretion, upon being satisfied that such error or misdescription was not and is not calculated to mislead as regards any matter by this Act required to be stated therein, make an order that the registration of such

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in affidavit
not misleading.

- 5 affidavit shall have the same effect and operation as if there had not been such error or misdescription; and the registrar, upon production to him of such order, shall cause a memorandum in the prescribed form to be subscribed to the several entries of such affidavit in the books kept in the registry office, and thereupon the
- 10 registration of such affidavit shall have the same effect and operation in all respects as from the date of the original registration as if there had not been such error or misdescription.

22. Where an affidavit shall be registered as aforesaid, every such conveyance and other Act whatsoever made or done after the
- 15 date of the judgment, decree, order, or rule mentioned in such affidavit, of and concerning any lands mentioned in such affidavit, as under an Act of the Parliament of Ireland passed in the tenth year of King Charles the First, intituled an Act against covenous and fraudulent Conveyances, would be deemed void against
- 20 purchasers for money or other good consideration, shall be void as against the creditor registering such affidavit, and the like remedies may be had in respect of such lands as if such conveyance or other act had not been made or done: Provided always, that nothing herein contained shall in anywise affect the provisions of the same
- 25 Act concerning conveyances and other acts had or made to the intent to delay, hinder, or defraud creditors.

Voluntary conveyances after judgment entered up void as against the creditor.
10 Car. 1. sess. 2. c. 3 (Ir.).
Act not to affect provisions as to fraudulent conveyances.
[13 & 14 Vict. c. 29. s. 8.]

23. All such chattel interests in lands, as might have been taken in execution under any writ of fieri facias if the said Act of the session of the third and fourth years of the reign of Her Majesty,
- 30 chapter one hundred and five, had not been passed, may be taken in execution and otherwise dealt with under any writ of fieri facias already issued or hereafter to be issued, anything in this Act contained notwithstanding.

Act not to affect execution by fieri facias.
[13 & 14 Vict. c. 29. s. 10.]

24. In the administration in any court of the assets of any person
- 35 against whom any judgment, decree, order, or rule has been or shall be entered up, obtained, or made, either *before or after the passing of this Act*, who shall die seised of or entitled to any lands, the creditor under such judgment, decree, order, or rule shall have the same rights upon and in respect of such lands, as if this Act
- 40 had not been passed.

Rights of judgment creditor in administration of assets preserved
[13 & 14 Vict. c. 29 s. 11.]

25. Every civil bill decree for poor rates filed in the High Court under the provisions of the seventeenth section of the Act

Priority of judgment mortgages

[318.]

B

- A.D. 1889. of the session of the twelfth and thirteenth years of the reign
 for poor of Her present Majesty, chapter one hundred and four, intituled
 rates. "An Act to amend the Acts for the more effectual relief of the
 [12 & 13 Vict. "destitute poor in Ireland," may be registered as a judgment
 c. 104. s. 18.] mortgage by an affidavit in the prescribed form against lands 5
 situated within the union where such poor rates have accrued due,
 of which at the time of swearing such affidavit the person against
 whom such civil bill decree has been obtained, is seized or possessed
 at law or in equity, or over which at the said time he has any
 disposing power which he may without the assent of any other 10
 person exercise for his own benefit. Every such civil bill decree
 registered as a judgment mortgage, and every judgment for poor
 rates registered as a judgment mortgage, shall take priority as
 a charge on all the estate and interest in any lands of the creditor
 mentioned in the affidavit of ownership, situated in the poor law 15
 union wherein the poor rates for which such civil bill decree or
 judgment was obtained accrued due, before all charges and incum-
 brances whatsoever, except crown rent, quit rent, tithe rentcharge,
 charges existing under the Act of the session of the fifth and
 5 & 6 Vict. sixth years of the reign of Her present Majesty, chapter eighty- 20
 c. 89. nine, intituled "An Act to promote the drainage of lands, and
 "improvement of navigation and water power in connexion with
 "such drainage in Ireland," and the Acts amending the same, and
 10 & 11 Vict. charges existing under the Act of the session of the tenth and 25
 c. 32. eleventh years of the reign of Her present Majesty, chapter thirty-
 two, intituled an Act to facilitate the Improvement of Landed
 Property in Ireland, and the Acts amending the same.

Judgments, Lis pendens, Crown Bonds, Recognizances, &c.

- Judgments entered up before 15th July 1850, recognizances, Crown bonds, judgments at the suit of the Crown, and lis pendens invalid as against purchasers, &c., unless registered within five years in the Registry of Judgments, or in the Registry of Deeds.
26. From and after the commencement of this Act no judgment of any superior court, decree or order in any court of equity, order 30
 in bankruptcy or lunacy, or judgment, order, or rule of any inferior
 court (all of which are hereafter referred to as "judgments"), entered
 up or obtained on or before the fifteenth day of July one thousand
 eight hundred and fifty, nor any revival of any such judgment, nor any
 recognizance, Crown bond, inquisition, or judgment at the suit of the 35
 Crown, nor any lis pendens, shall affect any lands as to purchasers,
 mortgagees, or creditors, unless the same shall have been duly
 registered or re-registered in the Registry of Deeds or in the
 Registry of Judgments within *five years* before the execution of
 the conveyance, settlement, mortgage, lease, or other deed or 40
 instrument vesting or transferring the legal or equitable right to
 the estate or interest in or to any such purchaser, or mortgagee for

valuable consideration, or as to creditors within *five years* before A.D. 1889.
the right of such creditor accrued.

27. From and after the commencement of this Act no rule in any Court of Common Law made before the fifteenth day of July one thousand eight hundred and fifty, nor any civil bill decree for poor rate made before that day, nor any statute which has been, or which hereafter shall be entered into, in the name or upon the proper account of Her Majesty, Her heirs or successors, nor any acceptance of office, shall affect any lands as to purchasers, mortgagees, or creditors.

Rules in court of law, and civil bill decrees for poor rate made before 15 July 1850, statutes, and acceptances of office invalid as against purchasers.

28. From and after the commencement of this Act no memorandum for the registry or re-registry of any judgment, revival, decree, rule, order, of any court or judge, civil bill decree for poor rates, *lis pendens*, recognizance, Crown bond, judgment at the suit of the Crown, statute, inquisition, or acceptance of office nor any memorandum of satisfaction, vacate, or cancellation of any judgment, revival, recognizance, Crown bond, or *lis pendens*, shall be received at the Registry of Judgments, and the Registry of Judgments shall be abolished.

Memorandum for registering judgments, &c. not to be received at the Registry of Judgments.

29. Any person who may require to register or re-register any judgment or revival of a judgment entered up or obtained on or before the fifteenth day of July one thousand eight hundred and fifty, or any judgment at the suit of the Crown, recognizance, Crown bond, inquisition, or *lis pendens* may lodge in the Registry of Deeds a memorial containing the prescribed description and particulars, and the Registrar shall enter the particulars or deal with the memorial in the prescribed manner. Every such memorial shall have subscribed or attached thereto a certificate of the judgment, revival, recognizance, Crown bond, inquisition, or *lis pendens* described therein signed by the proper officer, or a certified copy of such judgment, revival, recognizance, Crown bond, or inquisition, or of the material portions thereof signed by the proper officer.

Persons requiring register judgments, &c., to lodge memorial in the Registry of Deeds.

30. When any judgment, revival of a judgment, *lis pendens*, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition shall be registered under the provisions of this Act, such registration shall be effected in the prescribed manner, and no such judgment, *lis pendens*, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition shall affect any lands as to purchasers for valuable consideration, mortgagees, or creditors, other than the lands specified in the memorial for the registration of the same under the provisions of this Act.

No *lis pendens*, recognizance, Crown bond, &c. to affect lands other than those specified in the memorial.

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Registrar of
Deeds to
give certi-
ficates of
registry, &c.

31. The Registrar of Deeds shall, whenever thereunto requested, after the lodgment in his office of any memorial for the registry or re-registry of any judgment, revival, recognizance, Crown bond, or lis pendens, or of any memorandum for the registry of satisfaction, vacate, or cancellation, give a certificate in the prescribed form of such registry or re-registry, or of any registry or re-registry of any judgment, revival, recognizance, Crown bond, lis pendens, satisfaction, vacate, or cancellation contained in any book which shall, under the provisions of this Act, be transferred from the Registry of Judgments to the Registry Office, with a reference to the volume and page whereby the entry thereof may be readily found. Such certificate shall be conclusive evidence of such registry or re-registry.

Wills and Affidavits of Intestacy.

Registration of
wills when
testator dies
after com-
mencement of
Act.
[6 Anne, c. 2.
s. 3.]

32. Any will affecting land, when the testator shall die after the commencement of this Act, may be registered in the registry office by any devisee thereunder, in the manner herein-after provided.

Affidavit of
intestacy may
be registered
after six
months.
[13 & 14 Vict.
c. 72. s. 15.]

33. Any person who shall claim any estate or interest in land in Ireland as heir or otherwise, which might have been defeated or affected by the will of any person who shall die after the commencement of this Act, and who shall believe such person to have died intestate, or intestate as to such land, may at any time after (but not before) the expiration of six months from the death of such person make an affidavit in the prescribed form, and such affidavit (herein-after called an affidavit of intestacy) may be registered in the registry office in the prescribed manner.

Every such affidavit shall state—

1. The date of the death of the deceased.
2. The name and addition of the deceased.
3. The name and addition of the deponent.
4. The denominations upon the ordnance maps of the lands intended to be affected by the registration.
5. The nature of the estate or interest claimed by the deponent.
6. The fact that the deponent believes that the deceased died intestate, or intestate as to such lands.

Unregistered
will void
against
purchasers
under
registered will.
[13 & 14 Vict.
c. 72. s. 27.]

34. When any will authorised to be registered under this Act shall have been duly registered thereunder, every other will executed by the same testator shall, so far as regards the lands against which such first-mentioned will shall have been registered, be void, as

against any person claiming for valuable consideration under any
 duly registered assurance or disposition, executed or made by any
 devisee under such first-mentioned will, unless such other will shall
 have been registered before the registration of such assurance or
 5 disposition, but where any person is deprived of any lands which
 he would have enjoyed beneficially under or by virtue of such
 secondly-mentioned will but for the priority or registration of
 such firstly-mentioned will, he shall be entitled to recover com-
 10 pensation from such devisee under the firstly-mentioned will to the
 amount or value of the consideration which shall have been paid
 to or received by him for the execution or making by him of such
 registered assurance or disposition as aforesaid [*or to the extent of*
 the damage which such person shall have sustained by reason of
 the execution or making of such registered assurance or disposition
 15 as aforesaid, not exceeding the amount or value of the consideration
 which shall have been paid to or received by such devisee under
 the firstly-mentioned will for the execution or making by him of
 such registered assurance or disposition as aforesaid].

The proceedings to recover such compensation shall be taken in
 20 cases where the lands shall not exceed the annual value of *thirty*
pounds by civil bill in the civil bill court of the county in which
 the lands or any part thereof shall be situate, and in all other
 cases by action in the Chancery Division of the High Court. In
 this section the expression "annual value" means the annual value
 25 established in the manner provided by the thirty-first section of the
 County Officers and Courts (Ireland) Act, 1877; and the word
 "county" has the same meaning as in the said Act.

35. When an affidavit of intestacy shall have been duly regis-
 30 tered under this Act, any will executed by the person in respect
 of whose intestacy such affidavit shall have been registered
 shall, so far as regards the lands against which such affidavit
 of intestacy shall have been registered, be void, as against any
 person claiming for valuable consideration under any duly registered
 assurance or disposition, executed or made by any person claiming
 35 immediately or derivatively under such intestacy, unless such will
 shall have been registered before the registration of such assurance
 or disposition.

36. Every will registered within *two years* after the death of the
 testator shall be as valid and effectual as if the same had been
 40 registered immediately after his death.

37. When any person claiming to be interested under the
 alleged will of a person dying after the commencement of this

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40 & 41 Vict.
c. 56.Unregistered
will void
against
purchasers
under a
registered
intestacy.
[13 & 14 Vict.
c. 72. s. 27.]Registration of
will within two
years effectual.
[13 & 14 Vict.
c. 172. s. 27.]When will
cannot be
registered with-

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in two years,
persons claim-
ing under it
may obtain an
order from the
Court to
register in-
testacy as
disputed.

Act shall be unable to register such will within the period of two years from the death of such person by reason of the concealment, suppression, or contesting of such will, or any other cause, it shall be lawful for such person to apply to the High Court within the said period, in the prescribed manner, for liberty 5 to register as disputed the intestacy of the person under whose alleged will he claims; and the High Court, if satisfied that there is reasonable ground for disputing such intestacy, may direct that a memorial of such disputed intestacy shall be received and registered, and shall by such order limit the time during which 10 such intestacy shall continue registered as disputed; and the registrar, upon production to him of such order, and of a memorial in the prescribed form, stating the name and addition of the person so dying, the date of his death, and the denominations upon the ordnance map of the lands alleged to have been comprised in 15 or affected by his will, shall register the intestacy of such person as disputed; and upon the determination of the time limited by such order as aforesaid the registration of such intestacy as disputed shall be cancelled and avoided: Provided always, that it shall be lawful for the High Court, if it shall think fit, by any 20 order or orders to extend the time during which such intestacy shall continue registered as disputed.

Registration of
will while in-
testacy
registered as
disputed, as
effectual as if
immediately
after death of
testator.

38. If the will of the person whose intestacy shall have been registered as disputed under this Act shall be duly registered while such intestacy shall continue registered as disputed, the registration 25 of such will shall be as valid and effectual as if the same had been registered immediately after the death of the testator.

Affidavit of
intestacy may
be registered
while intestacy
registered as
disputed.

39. Nothing herein contained shall prevent the registration of an affidavit of intestacy under the provisions of this Act while such intestacy shall continue registered as disputed, but in such case 30 the registration of every such affidavit of intestacy shall be noted as disputed in all the books, indexes, and certificates used and given in the registry office; and if the will of the person whose intestacy has been registered as disputed shall be registered within the aforesaid period of two years, then the registration of such 35 affidavit of intestacy shall be cancelled, and shall have thenceforth no operation or effect whatever; otherwise such registration shall be effectual as from the date at which it shall have been effected.

Provisions for
cases of dis-
puted in-
testacy.

40. When an affidavit of intestacy shall have been duly registered under this Act, and any proceedings shall be taken 40 at any time after the registration of such affidavit in a court of competent jurisdiction, for the purpose of obtaining probate of

the will of the person in respect of whose intestacy such affidavit shall have been registered, or for the purpose of obtaining letters of administration with such will annexed, it shall be lawful for any person claiming under such will to require the registrar to
 5 note the fact that such intestacy is disputed, and the registrar, upon proof in the prescribed manner of the institution of such proceedings, shall note such intestacy as disputed in all the books and indexes used and certificates given in the registry office, and thenceforth, and so long as such intestacy shall be noted as
 10 disputed, the registration of the affidavit of such intestacy shall have no operation or effect whatsoever: Provided always, that nothing in this section contained shall affect in any way the priority herein-before given to any person claiming for valuable consideration under any registered assurance or disposition executed
 15 or made by any person claiming immediately or derivatively under an intestacy an affidavit of which shall have been registered under this Act, where such assurance or disposition shall have been duly registered prior to the noting of such intestacy as disputed.

A.D. 1889.

41. When the registration of any affidavit of intestacy shall have
 20 been noted as disputed under the provisions herein-before contained, if the proceedings for the purpose of obtaining probate of the will of the person in respect of whose intestacy such affidavit has been so registered as aforesaid, or of obtaining letters of administration with his will annexed, shall have terminated in the refusal of the
 25 court to grant probate of such will or such letters of administration, it shall be lawful for any person claiming under such intestacy to apply to the registrar to cancel the noting of such intestacy as disputed; and the registrar, upon proof to him in the prescribed manner of the termination of such proceedings in the manner aforesaid, shall cancel the noting of such intestacy as disputed, and upon
 30 such note being so cancelled the registration of such affidavit of intestacy shall have the same effect and operation as from the date of its registration as if such intestacy had not been noted as disputed: Provided always, that such proceedings shall not be
 35 taken as having terminated within the meaning of this section and the section immediately following until after the expiration of the time allowed by law for appealing from the order granting or refusing such probate or such letters of administration, or if an appeal shall have been duly brought, until after the decision of
 40 such appeal.

Removal of
note of intestacy as disputed.

42. In the event of the proceedings for obtaining such probate or letters of administration with the will annexed terminating in the granting of such probate or such letters of administration with

Cancelling registration of affidavit of intestacy when will proved.

A.D. 1889. the will annexed, the registrar shall, upon proof to him in the prescribed manner of the granting of such probate or such letters of administration, cancel the registration of the affidavit of the intestacy of the person whose will shall have been so proved, or to whose effects letters of administration with the will annexed shall have been so granted, and thenceforth the registration of such affidavit of intestacy shall have no operation or effect whatsoever: Provided always, that nothing in this section contained shall affect in any way the priority herein-before given to any person claiming for valuable consideration under any duly registered assurance or disposition executed or made by any person claiming immediately or derivatively under an intestacy an affidavit of which shall have been registered under this Act, where such assurance or disposition shall have been registered prior to the cancelling of such registration.

Cancelling
registration of
will probate of
which has been
revoked.

43. When probate of any will registered under this Act, or letters of administration with such will annexed, shall have been revoked by any court of competent jurisdiction, the registrar shall, upon proof to him in the prescribed manner of such revoking, cancel the registration of such will, and thenceforth the registration of such will shall have no operation or effect whatsoever: Provided always, that nothing in this section contained shall affect in any way the priority herein-before given to any person claiming for valuable consideration under any duly registered assurance or disposition made or executed by any person claiming immediately or derivatively under any will registered under this Act where such assurance or disposition shall have been registered prior to the cancelling of the registration of such will.

Registration of Caveats.

Power to enter
a caveat.
[13 & 14 Vict.
c. 72. s. 41.]

44. Any person may, by a requisition in writing under his hand in the prescribed form, delivered at the Registry Office, require a caveat in respect of any lands to be mentioned in such requisition to be entered in the said office on behalf of any person described in such requisition; and the requisitions for caveats shall from time to time be made up into books or parcels and numbered in the prescribed manner. Every caveat shall be in the prescribed form, and shall state—

1. The date on which it is delivered.
2. The name and addition of the person by whom it is delivered.
3. The name and addition of the person on behalf of whom it is delivered.

4. The time for which it is intended to remain in force, which shall not exceed *six months*. A.D. 1889.

5. The denominations upon the ordnance maps of the lands intended to be affected by such caveat.

5 45. When a caveat shall be so required to be entered an entry shall be made in the books and indexes of the registry office in the prescribed manner, and expressing the like particulars as if the same were an assurance to be registered under this Act affecting the lands mentioned in such caveat, and made by the person
10 requiring such caveat to be entered.

Mode of entering caveats.
[13 & 14 Vict.
c. 72. s. 42.]

46. When a caveat shall be entered under this Act as to any lands, every person claiming for valuable consideration under any assurance affecting the same lands made by the person by whom the entry of the caveat has been required, or any person
15 claiming under him, to or with the concurrence of the person on behalf of whom the caveat was so entered, or his heirs, executors, administrators, or assigns, and duly registered in the manner directed under this Act within the period mentioned in the caveat after the caveat shall have been so entered as to such lands, shall be entitled to the
20 same priority, protection, and advantage under the provisions of this Act as if such assurance had been executed and registered at the time of entering the caveat.

Extent of protection to be afforded by caveats.
[13 & 14 Vict.
c. 72. s. 43.]

47. No caveat which shall be entered under the provisions of this Act shall be of any force or effect, except by way of protection
25 to a contract entered into at or before the date of the entry of the caveat, or by way of protection to an assurance for valuable consideration made or executed in pursuance of such contract, or by way of protection to any assurance for valuable consideration which at the date of the entry of the caveat shall have been executed by
30 some one or more of the persons by whom the lands shall be conveyed or otherwise affected, or by way of protection to any assurance for valuable consideration which shall have been in contemplation at the date of such entry; and no caveat shall have any force or effect as against the operation of the bankruptcy of the
35 person requiring any caveat to be entered, or any act under such bankruptcy.

The protection of caveats restricted to specified cases.
[13 & 14 Vict.
c. 72. s. 44.]

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PART II.

HOW REGISTRATION SHALL BE EFFECTED.

Ordnance Maps to be the basis of Registry.

Registration to
be effected
against de-
nominations
upon ordnance
maps.
[13 & 14 Vict.
c. 72. s. 1.]

48. The ordnance maps of Ireland shall form the basis of registration under this Act, and of the indexes and books to be kept thereunder, and (except as herein-after expressly provided) every assurance or disposition registered under this Act shall be registered only against the denominations on the said ordnance maps in which the lands comprised in such assurance, or affected by such disposition, are situated.

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Registration to be by Memorial.

Registration
effected by
delivery of
memorial.

49. Registration under this Act shall (except in the cases herein otherwise expressly provided for) be effected by the delivery to the registrar of a memorial in the prescribed form of the assurance or disposition proposed to be registered. The person delivering such memorial shall deliver with it a certificate in the prescribed form, stating the number of folios contained in the memorial, the number of grantors and of denominations of land, and stating (except in the case of provisional registration) that the denominations in the memorial are denominations appearing on the ordnance maps, and stating such other matters as may be prescribed. Every memorial shall be authenticated in such manner as may be prescribed. It shall be the duty of the registrar at the prescribed time, and in the prescribed manner, to ascertain that such memorial complies with all the requirements of this Act; and in the case of an assurance or will (if such assurance or will shall be produced to the registrar) to compare the memorial with such assurance or will.

The rules under this Act may provide for the comparison of the memorial prior to registration, in certain particulars only, and for a subsequent comparison (if necessary) in order that the memorial may constitute a sufficient foundation for the books and indexes to be kept in the office, and on any such comparison the memorial may be amended by the registrar in any respect in which it is erroneous.

Provisions for
registering full
copy of
assurance or
disposition.

50. The person delivering the memorial of an assurance or disposition may at the same time deliver to the registrar a copy of

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such assurance or disposition at full length, subject to the prescribed conditions; and it shall be the duty of the registrar to compare such copy with such assurance or disposition, if the same shall be produced to him, and, if it is a true copy of such assurance or disposition, to endorse upon such copy a certificate to that effect, in the prescribed form. A copy of such assurance or disposition, certified by the registrar, shall be delivered to any person requiring the same on payment of the prescribed fee, and such last-mentioned certificate shall be conclusive evidence that the copy so certified is a true copy of such assurance or disposition.

A.D. 1839.

Contents of Memorial.

51. In the case of an assurance or will, the memorial shall be in the prescribed form, and shall contain the following statements:—

Contents of
memorial of
assurance and
will.

- 15 (1.) The date of the assurance or will.
- (2.) The names and additions of all the parties thereto in the case of an assurance, and of the testator in the case of a will, and, in the case of an assurance, as to each of the parties, whether he is a grantor or a grantee.
- 20 (3.) The lands comprised in or affected by the assurance or will and intended to be affected by the registration as the same are described in such assurance or will, where it contains a description of the lands corresponding with the names of the denominations on the ordnance maps in which the lands are included.
- 25 (4.) Where the assurance or will does not contain any description of the lands, or where the description of the lands contained in the assurance or will does not correspond with the names of the denominations on the ordnance maps in which such lands are included, the memorial shall state the names of the denominations on the ordnance maps in which the lands comprised in or affected by the assurance or will, and intended to be affected by the registration are situated.
- 30 (5.) The county and barony in which each denomination of land is situated, or (in the case of lands, messuages, or tenements situated in a city) the city and parish in which each denomination is situated, whether or not the assurance or will shall mention such county and barony or city and parish, as the case may be.
- 35 (6.) The nature of the assurance registered, specifying whether it is a marriage settlement, lease, mortgage, or what other description of assurance.
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Contents and
verification of
memorial of
judgment,
decree, or order,
affecting land.

52. In the case of an order affecting land, the memorial shall be in the prescribed form, and shall state :—

- (1.) The date of the judgment, decree, or order;
- (2.) The title of the action, cause, or matter wherein the same purports to have been made; 5
- (3.) The effect of the judgment, decree, or order, in relation to the lands against which it is registered;
- (4.) The names and additions of the person whose estate is intended to be affected by the registration of such judgment, decree, or order, and of the person seeking to register the same; 10
- (5.) The lands affected by such judgment, decree, or order, and intended to be affected by the registration, as the same are therein described;
- (6.) The names of the denominations upon the ordnance maps of the lands affected by such judgment, decree, or order, and intended to be affected by the registration; 15
- (7.) The county and barony, or city and parish in which such lands are respectively situated, in the same manner as is herein-before directed with reference to memorials for the registration of assurances. 20

Every such memorial shall, previously to the same being deposited in the registry office, be compared with the judgment, decree, or order of which it purports to be a memorial, by some officer authorised to give out an office copy of such judgment, decree, or order, and shall be certified by the signature of such officer to contain a correct statement of such judgment, decree, or order, so far as such memorial purports to state the same; and every such officer is hereby required to examine any such memorial, and certify the same (if correct) by his signature, on payment of the prescribed fee. 25 30

Contents of
memorial in
other instances.

53. In the case of a private Act of Parliament, vesting of lands, equitable mortgage, lien, judgment, *lis pendens*, recognizance, Crown bend, judgment at the suit of the Crown, or inquisition the memorial shall be in the prescribed form, and shall contain the following statements (in addition to any others required by this Act) :— 35

- (1.) The date of the passing of the Act of Parliament, of the vesting of the lands, of the equitable mortgage, of the lien, of the judgment, of the recognizance, of the *lis pendens*, or of the inquisition, as the case may be; 40

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- (2.) The names and additions of the person whose estate is intended to be affected by the registration, and of the person seeking to register such Act, instrument, or disposition ;
- (3.) The names of the denominations upon the ordnance maps where the lands sought to be affected by such registration are situated ; and
- (4.) The county and barony, or city and parish, as herein-before directed, with reference to abstracts for the registration of assurances and wills.
- 10 54. Every memorial (other than a memorial for the purpose of provisional registration) and every affidavit of intestacy shall specify the denominations upon the ordnance maps in which the lands intended to be affected by the registration of the assurance or disposition proposed to be registered, are included, and the
- 15 county and barony in which each denomination is situated, or (in the case of lands, messuages, or tenements situated in a city) the city and parish in which each denomination is situated.

Memorial shall specify denominations on ordnance maps.

Provisional Registration in certain Cases.

- 20 55. Where the assurance or disposition sought to be registered shall contain no description of any part of the lands comprised therein or affected thereby, or where the names of the lands described in such assurance or disposition or some part thereof shall not correspond with the names of the denominations upon the ordnance maps, and it shall be desired to register such assurance or disposition
- 25 provisionally, in order to preserve its priority, and until a perfect registration can be effected, it shall be lawful for the person seeking to register such assurance or disposition to deliver to the registrar a memorial thereof in the prescribed form ; whereupon, and upon all the other requirements of this Act having been duly
- 30 complied with, the registrar shall enter such assurance or disposition in the prescribed manner as provisionally registered, and shall give to the person registering the same a certificate to that effect.

Provisional registration where ordnance denominations cannot be stated.

56. An affidavit of ownership may be admitted to provisional registration as of course upon the certificate of the person seeking
- 35 to register the same, or his solicitor, that such affidavit does not correctly state the denominations upon the ordnance maps of the lands sought to be affected. If within the prescribed time there shall be delivered to the registrar a memorandum in the prescribed form stating the denominations upon the ordnance maps of the

Provisional registration of affidavit of ownership.

A.D. 1889. — lands intended to be affected by such registration, then the registration of such affidavit of ownership shall become absolute and effectual, to all intents and purposes, as of the date of such provisional registration, and the registrar shall cancel the entry of such registration as provisional, and enter such registration in the 5 books and indexes of the registry office as of the date of such provisional registration; but if such memorandum shall not be so delivered as aforesaid within the prescribed time, then such provisional registration shall be null and void, and of no effect whatsoever. 10

Provisional registration to become absolute on production of perfect memorial.

57. If within the prescribed time from the provisional registration of any assurance or disposition a perfect memorial thereof shall be delivered to the registrar in the prescribed form, the registration of such assurance or disposition shall become absolute and effectual, to all intents and purposes, as of the date of such provisional registration, and the registrar shall cancel the entry of such registration as provisional, and enter such registration in the books and indexes of the registry office as of the date of such provisional registration, and shall give a certificate of registration in the prescribed form; but if a perfect memorial shall not be so delivered as aforesaid within 15 the prescribed time after such provisional registration, then such provisional registration shall be null and void, and of no effect whatsoever. 20

Affidavit for purpose of provisional registration.

58. The registrar shall not admit any assurance or disposition (other than an affidavit of ownership) to provisional registration 25 unless upon the production to him of an affidavit made by the person seeking to register the same, or his solicitor, stating that the immediate registration of such assurance or disposition is required, and that the person seeking to register the same is unable to state the names of all the denominations upon the ordnance maps 30 in which the lands mentioned in or affected by the assurance or disposition sought to be registered are situated.

Assurance or disposition provisionally registered may be also registered in the ordinary manner.

59 While any assurance or disposition shall remain provisionally registered the same assurance or disposition may be registered in the ordinary manner by any person authorised to register the same, 35 and in the event of such provisional registration becoming absolute, the subsequent registration of the same assurance or disposition shall be cancelled by the registrar, otherwise the same shall remain and be as valid and effectual as if the same assurance or disposition had not been so provisionally registered as aforesaid. 40

Registration only effectual against Lands mentioned in Memorial.

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60. No assurance or disposition registered under this Act by delivery of a memorial shall be considered as registered against any lands other than the lands mentioned in the memorial for the
 5 registration of the same; but the registration of any assurance or disposition as to certain of the lands comprised in or affected thereby shall not prevent the subsequent registration of the same assurance or disposition as to any other lands comprised therein or affected thereby.

Registration only against lands mentioned in memorial.

10 *Proof of Execution of Instrument Registered.*

61. Any assurance, the execution whereof by the grantor or each of the grantors therein, shall appear to be attested by two witnesses (at the least), whose names and addresses shall be thereto subscribed or therein stated, may be registered within *one year* from
 15 the date at which it purports to have been executed, without proof of execution, upon production of such assurance to the registrar; and for this purpose the date at which an assurance purports to have been executed shall, in the case of an assurance purporting to have been executed by more than one grantor at different times,
 20 mean the earliest date at which it purports to have been executed by any grantor.

Assurance duly attested may be registered within a year without proof of execution.

62. Any will to which there shall be an attestation clause, by the terms of which it shall appear that the will was duly executed in accordance with the provisions of an Act passed in the first year of
 25 the reign of Her Majesty, chapter twenty-six, intituled "An Act for the amendment of the Laws with respect to Wills," and of the Wills Amendment Act, 1852, may be registered within *two years* from the death of the testator, without proof of execution, upon production to the registrar of such will and an affidavit proving the
 30 date of the death of the testator.

Will duly attested may be registered within two years.

63. When any assurance proposed to be registered shall not appear to be so attested as aforesaid, or shall have been executed more than a year previously, or shall not be produced to the registrar, its execution shall be proved in the following manner:
 35 If the execution of such assurance by the grantor, or (if there be more than one grantor) by one or more of the grantors, is attested by one or more witness or witnesses, such witness, or one of such witnesses, shall by affidavit, in the prescribed form, prove the execution of such assurance by one or more of the
 40 grantors, as the case may be. But if there shall be no witness to the execution of the assurance by the grantor, or (if there be more

Mode of proving the execution of assurances proposed to be registered when not so attested or executed more than a year previously.

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than one grantor) by any grantor, or although there be such witness, if he shall either be dead or cannot be found or shall be unwilling to make such affidavit, then, and upon the solicitor for the person proposing to register such assurance certifying the fact of the death of such witness, or that he cannot be found, or that he is unwilling to make such affidavit, the execution of such assurance may be proved by any person who shall by affidavit in the prescribed form, depose to the handwriting of the grantor in such assurance, or (if there be more than one grantor) of one or more of the grantors.

Mode of
proving the
execution of
wills when
not so attested
or executed
more than two
years pre-
viously.

64. When any will proposed to be registered shall not have such an attestation clause as herein-before is mentioned, or shall have been executed more than two years previously, its execution shall be proved by one of the witnesses thereto by an affidavit in the prescribed form; provided, however, that any will, in respect of which probate, or letters of administration with the will annexed, shall have been granted by any court of competent jurisdiction, shall be admitted to registration at any time without proof of execution, whose production to the registrar of such probate, or letters of administration as the case may be, or a copy thereof respectively stamped with the seal of the court.

Assurances or Wills more than Thirty Years Old.

Assurances or
wills more than
thirty years
old may be
registered
under an order
of the Court.

65. When any assurance or will proposed to be registered shall be more than *thirty years* old, and its execution cannot be proved as herein-before provided, it shall be lawful for the person seeking to register the same to apply to the High Court, in the prescribed manner, for an order directing such assurance or will to be registered, and the High Court, if satisfied that such assurance or will comes from the proper custody, and that its execution cannot be proved as herein-before provided, may order that the same shall be registered; and the registrar, upon production to him of such order, shall register such assurance or will without requiring proof of its execution.

Registration of Lost Assurances or Wills.

Memorial of
lost assurances
or wills may
be registered
under an order
of the Court

66. If any assurance or will proposed to be registered shall have been lost, it shall be lawful for the person seeking to register the same to apply to the High Court in the prescribed manner, for an order directing that a memorial of such assurance or will be received and registered; and the Court, if satisfied that such assurance or will has been lost, and if the contents and execution of such assurance or will shall be proved to its satisfaction, may order that a

memorial of such assurance or will be received and registered, and the registrar, upon production to him of such order, shall register such memorial without requiring proof of the execution of such assurance or will.

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Certificate of Solicitor.

67. The solicitor who shall be employed to register any assurance other than a lost assurance or will, shall certify in writing that the contents of the memorial are correct. Any solicitor who shall wilfully sign a false certificate shall be guilty of a misdemeanor.

Solicitor to certify correctness of memorial.

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Production of Assurance to Registrar.

68. Every assurance or will proposed to be registered shall be produced to the registrar along with the memorial, except—

Except in certain cases the assurance or will to be registered shall be produced to the registrar.

- (1.) Where such assurance or will, as the case may be, has been lost ;
- 15 (2.) Where a court of competent jurisdiction has granted probate of such will or letters of administration with such will annexed, as the case may be ; or
- 20 (3.) Where such assurance has been executed out of Ireland by any grantor, or such will has been executed out of Ireland, and it is not sought to have such assurance or will, as the case may be, registered under the provisions herein-before contained without proof of execution.

Certificate of Registration.

69. The registrar upon the delivery to him of a memorial in the prescribed form, and upon proof of the execution of the assurance or disposition proposed to be registered in the cases in which such proof is herein-before required, and upon all the other requirements of this Act having been complied with in the prescribed manner, shall register the assurance or disposition, a memorial of which has been so delivered to him, in the books of the registry office in the prescribed manner. He shall also indorse a certificate of registration in the prescribed form on every assurance or will produced to him, and when the assurance or disposition registered has not been produced to him, shall give to the person registering the same a certificate in the prescribed form.

Registrar to enter registration, and give certificate to person registering.

70. Every such certificate shall be conclusive evidence that such assurance, or disposition has been duly registered at the time in such certificate stated, and a certificate of provisional registration as herein-before is mentioned shall be conclusive evidence that the

Certificate to be conclusive evidence of registration.

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Proceedings when the Registrar shall refuse to accept Memorial.

Registrar shall refuse to accept informal memorial.

71. When any memorial delivered to the registrar for the purpose of registration under this Act shall not comply with the requirements of this Act, or shall not be in the prescribed form, or shall contain statements other than those herein-before provided or prescribed by any rules made under this Act, the registrar shall refuse to receive such memorial, and shall if requested by the person tendering such memorial, deliver to such person a statement in writing of his reasons for such refusal. The registrar shall, if requested by the person tendering such memorial, enter in the prescribed manner a statement of the date of the assurance or disposition, a memorial of which was tendered for registration, and of the parties thereto, and the lands comprised in or affected thereby, and shall register the same conditionally. 5 10 15

Conditional registration.

Where registrar refuses to accept memorial, the party tendering it may apply to Court.

72. The person tendering such memorial may, if he be dissatisfied with the rejection of the same by the registrar, apply to the High Court, in the prescribed manner, within one month, for an order that such memorial be received by the registrar, within a time to be named in the order, and the court, if of opinion that such memorial is substantially in accordance with the provisions of this Act and of the general rules to be made hereunder, and ought to be have been received by the registrar, may make an order to that effect. 20 25

Registrar to receive memorial when so ordered by Court.

73. On production to the registrar of such order of the High Court within the time named therein, he shall receive such memorial, and shall proceed with the registration of the assurance or disposition of which it is a memorial, and such registration shall be effectual to all intents and purposes as of the date of such conditional registration. 30

Power to compel Registration in certain cases.

Any person claiming under an assurance may compel the registration thereof by application to Court.

[18 & 14 Vict. c. 72. s. 19.]

74. Any person claiming any interest in any lands under any assurance or will by this Act authorised to be registered, which has not been registered, may in writing require any person in possession of the original document, or (if there be duplicates) any one of the original documents, or (where the original document, or the several original documents, is or are lost) a copy of, or (where no copy is known to exist) an extract from the original document, or of any of the original documents, to deliver or send 35

- the same at or to the registry office, for the purpose of its being registered, or to produce the same before a judge of the High Court for the purpose of having an order made in relation to the registration of the same; and in case the person in whose
- 5 possession the same shall be refuse so to do, it shall be lawful for a judge of the High Court, upon application in the prescribed manner, to make such order respecting the delivery or sending of such document or copy or extract as aforesaid, at or to the registry office, or the production thereof before such judge,
- 10 for the purpose aforesaid, as to such judge, in the exercise of his discretion, shall, under the circumstances of the case, appear proper. Provided always that nothing in this Act contained shall authorise any person to require or enforce the registration of any assurance or will, or copy, or extract, in case any agreement or provision for
- 15 the non-registration of such assurance or will shall have been made by him or by any person from or through whom he derives an interest under such assurance or will. The costs of such application and of the registration of such assurance or will shall be in the discretion of the judge, and he may order that an attested copy of
- 20 the original document, or of the copy or extract to be delivered or sent as aforesaid, shall be furnished to the party by whom the same shall be so delivered or sent at the expense of the party by whom the application is made.

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PART III.

PROVISIONS FOR CANCELLING REGISTRATION.

Satisfied Mortgages and Charges.

Registration of
satisfied mort-
gages and
charges may
be cancelled.

75. When any mortgage debt, annuity, charge, or incumbrance affecting any lands created or secured by any assurance registered before or after the commencement of this Act shall have been paid off, discharged, or satisfied, as between the immediate parties to such assurance, it shall be lawful for any person interested in such lands to apply to the registrar in the prescribed manner to cancel the registration of the assurance creating or securing such mortgage debt, annuity, charge, or incumbrance, and the registrar, upon proof to him in the prescribed manner of the payment, discharge, or satisfaction of such mortgage debt, annuity, charge, or incumbrance, shall cancel the registration of the assurance creating or securing such mortgage debt, annuity, charge, or incumbrance.

Cancelling of
registration to
operate as
reconveyance.

76. Whenever any estate or interest in lands has been or shall be conveyed to any person by any assurance executed before or after the commencement of this Act, by way of security for the payment of any mortgage debt, annuity, charge, or incumbrance, and the registration of such assurance shall have been cancelled under the provisions herein-before contained, then and immediately upon the cancelling of such registration, the conveyance of such estate or interest shall thenceforth become null and void, and cease to have any effect, and the estate or interest conveyed by such assurance shall, upon the cancelling of such registration, without any further deed, conveyance, or assurance, become and be vested in the person or persons in whom such estate or interest would have been vested at the time of such cancelling if such assurance had not been executed.

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Cancelling of
registration of
expired and
surrendered
leases.

77. Whenever the term granted by any lease registered before or after the commencement of this Act shall have expired, or such lease shall have been surrendered, it shall be lawful for any person interested in the lands which were comprised in such lease or any part thereof to apply to the registrar in the prescribed manner to cancel the registration of such lease, and the registrar, upon proof to him in the prescribed manner of the expiration or surrender of such lease, shall cancel the registration of the same.

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Court may
direct cancel-
ling in certain
cases.

78. Where the payment of any such mortgage debt, annuity, charge, or incumbrance shall not be made by any immediate parties

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to the assurance creating or securing the same; or where the registrar shall not consider the expiration or surrender of any such lease to have been satisfactorily proved, and shall refuse to cancel the registration thereof, it shall be lawful for any person interested
 5 in the lands affected by such assurance, or lease, or any part of the same, to apply to the High Court in the prescribed manner for an order directing the cancelling of the registration of such assurance or lease, and the High Court, if satisfied of the fact of such payment, or of the expiration or surrender of such lease, may, if it
 10 shall think it expedient to do so, make an order directing such registration to be cancelled, and the registrar, upon production to him of such order, shall cancel such registration accordingly.

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79. When any registration under this Act, or under any of the Acts hereby repealed, shall be cancelled under the provisions of this
 15 Act, the registrar shall, in cancelling such registration, note the time of the cancelling thereof in the prescribed manner.

Time of cancelling registration to be noted.

80. When any registration shall have been cancelled, such registration shall not be returned upon any search, unless where any person shall specially require that memorials of cancelled
 20 registrations shall be returned upon any search, in which case the registrar shall make search for such memorials, and certify accordingly.

Cancelled registration not to be returned on searches, unless expressly required.

81. When an affidavit of ownership in respect of any judgment, decree, rule, or order, has been or shall be registered, upon the
 25 lodgment with the registrar of such certificate of the entry of satisfaction upon the roll of the judgment, or of such certificate of the decree, rule, or order having been performed, complied with, or satisfied, as is mentioned in an Act passed in the twelfth year of Her present Majesty's reign, intituled "An Act to facilitate the
 30 transfer of Landed Property in Ireland;" the registrar shall cause a memorandum of satisfaction thereof, in the prescribed form, to be subscribed to the several entries of such affidavit in the books kept in the registry office, and shall also cancel the registration of such affidavit, and such registration shall thenceforth be deemed and
 35 taken as null and void, as if no such registration had been affected: and the legal or other estate in the lands affected by such registration shall, without any further deed, conveyance, or assurance, be and thereby become vested in the person in whom such legal or other estate would have been vested at the time of
 40 such cancelling if no such registration had been theretofore effected.

Cancelling of registration of affidavit of ownership to operate as reconveyance. [13 & 14 Vict. c. 29. s. 9. 21 & 22 Vict. c. 105. s. 5.]

Judgments, &c.

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Lodgment
of memo-
randum of
satisfaction
of judg-
ments, &c.

82. Any person who may require to register in the Registry of Deeds a satisfaction, vacate, or cancellation of any judgment, revival, recognizance, Crown bond, judgment at the suit of the Crown, or inquisition, or *lis pendens*, which shall have been regis- 5
tered in the Registry of Judgments and entered in any book which shall be transferred to the Registry of Deeds, or which shall be registered under the provisions of this Act, may lodge in the Registry of Deeds a memorandum containing a sufficient description of such judgment, revival, recognizance, Crown bond, 10
judgment at the suit of the Crown, inquisition, or *lis pendens*, and having subscribed or annexed thereto (as the case may be) a certificate of the entry of satisfaction upon the roll of such judgment or revival; or of the vacate or cancellation of such recognizance, Crown bond; or an office copy of any *quietus* or 15
certificate, or order in the nature of a *quietus* obtained by any debtor or accountant to the Crown, and of the certificate or consent of the Attorney-General for Ireland; or a certificate of the vacate of such *lis pendens*, such certificates to be signed by the proper officer in that behalf (and which certificates respectively 20
such officer is hereby authorised and required to give), or a certified copy duly authenticated of such judgment, revival, or recognizance, or of the material portions thereof respectively, and of the entry of satisfaction, vacate, or cancellation thereon.

Registrar of
Deeds to
enter satis-
faction of
judgments,
&c.

83. The Registrar of Deeds shall, upon the lodgment in his office 25
of any such memorandum for the registry of a satisfaction of any judgment or revival, or of the vacate or cancellation of any recognizance, Crown bond, judgment at the suit of the Crown, or inquisition, or *lis pendens*, cause a note of such satisfaction, vacate, or cancellation to be marked or written on the entry of the registry 30
of such judgment, revival, recognizance, Crown bond, or *lis pendens*, specifying the date at which such satisfaction, cancelling, or vacate appears by the certificate subscribed to such memorandum to have been entered on record, or as to any *lis pendens* the date of the order by which such *lis pendens* was vacated. 35

PART IV.

A.D. 1889.

PROVISIONS AS TO NOTICE, &C.

84. All priorities given by this Act shall have full effect in all courts, except in cases of actual fraud, and no person shall lose any
 5 priority under this Act merely in consequence of his having been affected with actual or constructive notice; but, notwithstanding anything herein contained, it shall be lawful for a court of competent jurisdiction to deprive any person of the priority to which he would otherwise have been entitled under this Act, on the
 10 ground of actual fraud.

Priority given by Act to be enforced, notwithstanding notice, except in cases of actual fraud. [13 & 14 Vict. c. 72. s. 29.]

85. Where any lands shall be vested in any person under any assurance or disposition registered under this Act, no purchaser for valuable consideration, without actual fraud, claiming under
 15 any assurance or disposition made by the person in whom such lands shall be so vested, shall be affected or bound by reason of notice of any use, trust, or confidence affecting such lands, not manifested or proved by such first-mentioned assurance or disposition, or some other assurance or disposition duly registered under this Act before the registration of the assurance or disposition under
 20 which such purchaser so claims; and where in any assurance registered under this Act any use, trust, or confidence affecting any lands vested in any person under any assurance registered under this Act is declared or created by reference to, and depends for its validity, or for the terms thereof upon some other assurance executed after the commencement of this Act, no purchaser for valuable
 25 consideration, without actual fraud, claiming under any assurance made by the person in whom such lands are so vested, shall be affected by such use, trust, or confidence, unless the assurance by reference to which such use, trust, or confidence is so declared or
 30 created be registered under this Act before the registration of the assurance under which such purchaser so claims.

Purchaser for valuable consideration not to be affected by notice of uses or trusts not manifested by a registered assurance, nor by uses or trusts declared by reference to an unregistered assurance. [13 & 14 Vict. c. 72. s. 30.]

86. Nothing in this Act contained shall operate to confer on any person claiming without valuable consideration under any person any further priority or protection than would belong to the
 35 person under whom he claims.

Priority of person claiming for valuable consideration.

87. The registration of any assurance or disposition which if unregistered would have been fraudulent and void, shall not operate to prevent such assurance or disposition from being fraudulent and void in like manner as if the same had not been registered.

Void assurance not validated by registration.

A.D. 1889.

PART V.

SEARCHES.

All persons
may search
the books and
indexes kept
in the office.
[2 & 3 W. 4.
c. 87. s. 7.]

88. All persons interested in making searches in the registry office shall have full liberty to search and examine the indexes and books thereof, and to take abstracts or other short notes of any of the 5 matters in such books, and also to inspect, in the presence of some person belonging to the said office, any original memorial or assurance to which reference shall be obtained in such searches, upon every such person paying the prescribed fee or fees for such search and inspection respectively. 10

Common Search.

Any person
may, upon
requisition,
obtain a head
clerk's or com-
mon search
and certificate.
[2 & 3 W. 4.
c. 87. s. 8.]

89. Upon a request in writing being left in the registry office, a head clerk's or common search shall be made, and a copy of the abstract of every memorial, and of every memorial found to come within the terms of the said request, shall be made, and shall be 15 signed by one of the clerks upon the establishment of the said office with his name, and also by one of the assistant registrars with the initial letters of his name, and with all convenient expedition the same shall be delivered to the party making the request; but it shall be lawful for the person making such request to except 20 thereout any and every assurance or disposition of which he shall specify the date, description of assurance or disposition, and parties names, in a list at the foot of such request.

Negative Search.

A search
and negative
certificate
may be
obtained.
[2 & 3 W. 4.
c. 87. s. 21.]

90. Every person who shall require a search and negative certi- 25 ficate to be made, shall lodge with the registrar a requisition in the prescribed form.

Requisition
may be limited
either as to
names or
period.
[2 & 3 W. 4.
c. 87. s. 22.]

91. The person making such requisition may limit or extend the search and certificate to one or several names of persons and to a general period only, or to any particular period in respect of 30 each name, and to one or several denominations of land, and for a general period or for separate periods in respect of each denomination, or to both a name or names and a denomination or denominations as he shall think fit, and may also vary the terms of such requisition and exception, or either of them, to suit any number 35 and variety of assurances or dispositions, dates, parties names, denominations of land, counties, baronies, and parishes, and in place of requiring an abstract of every registered memorial, may require a full copy of a particular memorial, or of any number of

particular memorials, or of every memorial within any period or periods, and only an abstract of every other memorial coming within the terms of such requisition. A.D. 1889.

5 **92.** The registrar shall, upon the delivery of such requisition, as is mentioned in the last preceding section, file the same in the order in which it shall be received, and shall with all due diligence cause a search to be made and give to the person making such requisition a certificate in the prescribed form.

Requisition for negative search to be filed and certificate to be given.
[2 & 3 W. 4. c. 87. s. 23.]

10 **93.** The abstract of each memorial registered before the *passing of this Act* inscribed in such certificate shall be in the prescribed form, and shall set forth, as far as may be done from the memorial, the particulars mentioned in that form, and a copy of every memorial registered under this Act within the terms of the requisition shall be inscribed in such certificate.

Certificate to contain abstracts of memorials registered before the Act, and copies of memorials registered under the Act.
[2 & 3 W. 4. c. 87. s. 25.]

15 **94.** When any purchaser or party acquiring an interest in any lands shall be entitled to require of a vendor or party parting with such interest a negative search, the latter shall only be obliged to provide and furnish to the former a negative certificate of search with an abstract in the prescribed form of every memorial registered before the *passing of this Act*, and a copy of every memorial registered under this Act in the said office within the period comprised in such search: Provided always, that in every such case the requisition for such search shall contain no exception unless the purchaser or party acquiring such interest, or his, her, or their attorney shall have agreed in writing that an exception of a particular memorial or memorials, abstract or abstracts, shall be made in such requisition.

Vendor to furnish only a negative search, with an abstract of every memorial and copy of every memorial not excepted.
[2 & 3 W. 4. c. 87. s. 27.]

Searches for Judgments.

30 **95.** Any person who may after the commencement of this Act require a search to be made in the Registry of Deeds for judgments, revivals, recognizances, Crown bonds, judgments at the suit of the Crown and inquisitions, and lis pendens, or any of them, and a certificate of such search to be given, may lodge with the registrar a requisition in the prescribed form. The Registrar of Deeds shall upon the lodgment of such requisition file the same in the order in which it shall be received, and shall with all due diligence cause a search to be made, and give to the person delivering such requisition a certificate in the prescribed form.

Requisitions or searches for judgments, &c. in the registry office.

Duplicates.

40 **96.** Any person who may after the commencement of this Act require a duplicate of any search made and certificate given, or a
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Requisitions for duplicate searches in registry office.

A.D. 1889. — copy of any search which may have been recorded under the statutes in force before the *passing of this Act*, may lodge with the Registrar of Deeds a requisition in the prescribed form, and the registrar shall, upon the lodgment of such requisition, with all due diligence cause such duplicate or copy to be made and given to the 5 person requiring the same with a certificate at the foot thereof or appended thereto, stating that the same is a duplicate of the search and certificate in such requisition mentioned or a copy of the recorded search, as the case may be.

Duplicate to have the effect of original.

97. Every such duplicate or copy so certified as aforesaid shall 10 have the same force and effect, and shall be accepted and received in the same manner and for the same purposes as an original certificate or recorded search to the same extent and in the same terms.

Requisitions.

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Requisition by solicitors.
[2 & 3 W. 4.
c. 87. s. 22.]

98. Any person may lodge a requisition by his solicitor; but in that case the solicitor shall sign the requisition with his own name as solicitor for such person.

PART VI.

CONSTITUTION OF THE OFFICE.—STAMPS AND FEES.

A.D. 1889.

99. From and after the commencement of this Act the registry office established by the said recited Act of the sixth year of the reign of Queen Anne shall be carried on under the provisions of this Act, and all books and documents at any time used or kept in the said registry office shall be public property, and be preserved as herein-after mentioned.

Existing registry office to be carried on under the Act.

There shall be kept in the registry office such indexes and books as shall be prescribed.

100. The registry office shall be kept open to the public for business from the hour of *ten* in the forenoon until the hour of *four* in the afternoon of every day in the year, excepting only Saturdays, on which day the office shall be closed to the public at *two* in the afternoon: Provided that the office shall be kept closed on Sundays, Good Friday, Easter Monday, Whitsun Monday, Christmas Day, and the two week days next after Christmas Day, and on days of public fast and thanksgiving.

Days and hours of business in the office.

[2 & 3 W. 4. c. 87. s. 6.]

[46 & 47 Vict. c. 20.]

101. *The establishment of the registry office shall consist of a registrar, and such officers and clerks, with such salaries or remuneration as the Treasury shall from time to time think fit, to be paid out of moneys to be provided by Parliament.* Nothing herein contained shall affect the tenure of office or salaries or remuneration of the existing registrar or either of the existing assistant registrars.

Official staff. [2 & 3 W. 4. c. 87. s. 2.]

(1.) On and after the first vacancy in the office of registrar after the commencement of this Act, the following provisions shall take effect with respect to that office. Any person appointed to be registrar shall be a person then serving in the office of not less than *ten years* service, or a practising barrister of not less than *ten years* standing at the bar, or a person who has served as registrar of judgments for not less than *ten years*; he shall be appointed by the Master of the Rolls, and he or any officer or clerk in the office may be removed for inefficiency or misconduct.

(2.) The registrar, before entering upon office, shall give security for the due performance of the duties of his office in such manner and to such amount as the Treasury may direct.

(3.) Persons appointed after the commencement of this Act to be officers or clerks in the registry office shall be appointed by the Treasury and shall have such qualifications as the Treasury shall from time to time prescribe, and shall hold their offices by the tenure of ordinary civil servants of the Crown.

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Registrar not
to sit in Parlia-
ment.

[2 & 3 W. 4.
c. 87. s. 36.]

Officers to act
in person, and
not by deputy.

102. No person holding the office of registrar shall be capable of being elected to or of sitting or voting in Parliament.

103. The registrar and all other persons employed in the registry office shall execute their respective offices in person, and not by deputy, unless where a deputy for the registrar or any such person shall, with the approval of the Treasury, be appointed for that purpose by the Master of the Rolls in the case of temporary illness or other unavoidable cause of absence; and no officer of the registry office shall, during the term of his holding office, directly or indirectly practise as a barrister or solicitor, or participate in the fees of any other person so practising.

Office to be
under the
management of
the registrar.

[2 & 3 W. 4.
c. 87. s. 3.]

104. The management and superintendence of all departments in the office shall devolve as his duty upon the registrar; but in order to facilitate the business of the registry office (but nevertheless without in any way diminishing the responsibility of the registrar for any act or omission) the assistant registrars and any officer who may hereafter be appointed to discharge duties analogous to those of the existing assistant registrars, shall respectively be, and each of them is hereby empowered, for and on behalf of the registrar, during a vacancy in the office of registrar, to take affidavits, sign official documents, and do all official acts necessary in the execution of the duties of the registry office.

Stamps and Fees.

Fees payable
in the office.

[2 & 3 W. 4.
c. 87. s. 5.]

105. The Treasury, with the concurrence of the Lord Chancellor, may by order fix, and may from time to time alter, or vary the fees to be taken in the registry office, or any of them, to the intent that the same shall be justly apportioned, and that no greater fees shall be charged than will amount to a sum sufficient to discharge the expenses of the registry office. The fees taken at the time of the commencement of this Act shall continue to be taken until an order is made under this section, and thereafter in so far as they are not varied by such order. The Public Offices Fees Act, 1879, shall apply to the Registry Office, and to the fees appointed to be taken therein.

42 & 43 Vict.
c. 58.

No document
to be received
or used unless
stamped.

[27 & 28 Vict.
c. 76. s. 6.]

106. If at any time it shall appear that any document has through mistake or inadvertence been received, or filed, or used without having the proper stamp impressed thereon or affixed thereto, it shall be lawful for a judge of the High Court, if he

thinks fit, to order that such stamp shall be impressed thereon or
affixed thereto. and thereupon when a stamp shall have been
impressed on such document or affixed thereto in compliance with
any such order, such document and every proceeding in reference
5 thereto shall be as valid and effectual as if such stamp had been
impressed thereon or affixed thereto in the first instance.

A.D 1889.
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A.D. 1889.

PART VII.

GENERAL RULES, AND MISCELLANEOUS PROVISIONS.

General rules
to be framed
after passing
of Act.

107. At any time after the *passing of this Act*, the Master of the Rolls, with the approval of the Lord Chancellor, shall prepare such a code of rules as he may think best adapted for carrying out the 5 provisions and objects of this Act, and for the regulation and management of the registry office, consistent in all respects with the provisions of this Act. Such rules shall provide for the indexes and books to be kept in the said office, and for the mode of entering therein the registration of assurances, wills, and 10 other acts, instruments, and dispositions by this Act authorised to be registered, and shall also provide for the several matters in this Act mentioned as to be prescribed, and shall also provide for the searches to be made and certificates to be given, so far as they are not provided for by this Act; any such rules may 15 from time to time be added to, rescinded, amended, or altered, as occasion may require, by such other rule or rules as shall from time to time be made by the Master of the Rolls, with such approval as aforesaid.

Forms and
directions
to be settled.

108. The Master of the Rolls, with the approval of the Lord 20 Chancellor, shall on or before the *first day of December, one thousand eight hundred and ninety*, and afterwards from time to time as he may think necessary, settle and prescribe forms of memorials, of affidavits, of requisitions for searches, of certificates of searches, and of certificates of registration of assurances, or dispositions, 25 and also such other forms or directions as he may deem requisite or expedient for carrying out the provisions under this Act.

Rules for the
keeping of
the index.

109. At any time after the *passing of this Act*, the authority then having power to make rules of court for the purposes of the 30 Supreme Court of Judicature Act (Ireland), 1877, may, from time to time, in the manner prescribed by the sixty-first section of the same Act, make rules of court for all or any of the following matters, that is to say:

1. As to the office of the High Court wherein the index of judg- 35
ments is to be kept.
2. As to the manner in which such index is to be constructed
and kept.
3. As to the judgments which are to be indexed.

4. As to the method which is to be followed for supplying information for the construction and keeping of the index; and
5. As to the transfer of books, indexes, and other documents from the Registry of Judgments to the Registry of Deeds, or to such public office or offices as they shall direct; and they may determine the time, which may be at any time after the *passing of this Act*, at which every such transfer shall be carried out.
- 10 110. The Treasury, with the consent of the Master of the Rolls, may at any time direct that printing or any scientific improvement shall be introduced and made use of in the registry office, and may make such provisions as they may think fit for the purpose of having the efficiency of any mechanical inventions or other improvements tested, by the adoption of the same for a limited period, or for certain defined purposes, and may direct the adoption of any mechanical or other inventions or improvements in relation to the making and keeping of the indexes and books in the registry office, or in relation to the making of searches therein; and so soon as printing or other improvements shall be introduced into the registry office in lieu of scrivenery, it shall be lawful for the Master of the Rolls, with the approval of the Lord Chancellor (notwithstanding anything herein contained to the contrary), by general rules, to substitute for a memorial of any assurance or disposition a full copy or counterpart thereof, and to direct in what manner such copy or counterpart shall be made, and how it shall be authenticated for registration, and generally to make such further and other rules for the management and regulation of the registry office, and the mode of conducting the business thereof, as the introduction of printing or any scientific improvements shall render necessary or expedient.

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On introduction of printing in office, rules may be altered.

Index of Judgments.

111. An index of the judgments of the High Court shall be constructed and kept in the manner and in the office of the High Court, which shall be prescribed by the rules of court to be made as herein-before is provided.
112. The fees to be charged for indexing and searching in the index of judgments, and inspecting the judgments indexed, shall be deemed to be included in the fees mentioned in the eighty-fourth section of the Supreme Court of Judicature Act (Ireland), 1877; and the provisions of that Act relating to fees shall apply to such fees.

An index of judgments to be kept.

Fees for searches of index of judgments. [40 & 41 Vict. c. 57. s. 84.]

A.D. 1889.

Extension of Time.

Extension of
time may be
granted for
good cause.

113. In any case in which this Act provides, or in which any rule to be made as herein-before is mentioned shall provide, that any matter or thing may only be done within a fixed time, the Court may, for good cause, extend the time fixed by this Act, or such rule, 5 as the case may be, on application made in the prescribed manner either before or after the expiration of that time.

Affidavits.

Persons
before whom
affidavits for
purposes of
Act may be
sworn.

114. Affidavits for any purpose under this Act may be sworn before the registrar or such other officer as the Master of the Rolls 10 may direct by any rules to be made as herein-before is provided (each of whom is hereby empowered and required to administer oaths); or before a judge of assize; or before a justice of the peace of the county where any of the lands conveyed or affected by any assurance or disposition proposed to be registered are situated; or 15 before a person authorised by law to take affidavits in causes and matters depending in the High Court.

Treasury
may defray
expenses of
completing
indexes, &c.
[2 & 3 W. 4.
c. 87. s. 34.]

115. It shall be lawful for the Treasury, from time to time, out of such moneys as may be provided by Parliament for that purpose, to defray the expenses of compiling, transcribing on parchment, 20 and completing any memorials, transcripts, or indexes, remaining incomplete in the registry office, and of printing the same, or any part or parts thereof, and also of preparing the books directed by this Act to be prepared, and also of introducing printing or scientific improvements into the registry office, and also of the 25 adoption of such inventions or improvements as are herein-before mentioned, or of testing the efficiency of the same; and it shall be lawful for the Treasury to make such provisions as they may think proper for having copies of the Ordnance maps and indexes kept under the control of the clerks of the various unions through- 30 out Ireland, or other public officers, for the use of the public, in order to facilitate registration under this Act.

Office copies
of memorials
to be received
in evidence.
[2 & 3 W. 4.
c. 87. s. 32.]

116. In all proceedings before any court for all purposes whatsoever an office copy of any memorial registered in the registry office shall, upon such office copy being proved in like manner 35 as an office copy of any other record, be received and taken as evidence of the contents of the memorial of which it purports to be an office copy without the production of the original memorial.

Punishment
for forging
signature re-

117. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly act or assist in forging 40

or counterfeiting the name, signature, or handwriting of any officer of the registry office, in any case in which the signature of such officer is or shall be required or authorised to be made; or shall forge or counterfeit, or cause or procure to be forged or counter-
 5 feited, or knowingly act or assist in forging or counterfeiting the name, signature, or handwriting of any person whomsoever to any document which is or shall be required or directed to be signed by such person; or shall, with an intention to defraud any person whomsoever, use any document, the signature to which shall be so
 10 forged or counterfeited as aforesaid, knowing the same to be forged or counterfeited; or shall sign his own name, or cause or procure the signature of the name of any other person to any certificate or other writing requiring to be signed by an officer of the register office; or shall use any such certificate or other writing with the
 15 intent to defraud thereby any person whomsoever, any such person so offending, being thereof lawfully convicted, shall be and is hereby declared guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding *two years*, with or without hard labour.

A.D. 1889.
 quired by this
 Act, &c.
 [13 & 14 Vict.
 c. 72. s. 62.]

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Registrar of Judgments.

118. The Registrar of Judgments, and the clerk in the Registry of Judgments, shall, notwithstanding the abolition of that office, be attached to the Supreme Court of Judicature, and shall be subject to all the provisions relating to officers contained in the Supreme Court
 25 of Judicature Act (Ireland), 1877, as amended by any other Act, and the paragraph of the seventy-second section of the Supreme Court of Judicature Act (Ireland), 1877, as amended by any other Act, which relates to the power to transfer an officer from a Division in which his services are not required to some other office
 30 of the High Court or some Division thereof, shall apply to the Registrar of Judgments and to the clerk in the Registry of Judgments as though they were officers attached to a Division; with this addition in the case of the clerk, that he may be transferred by the Lord Chancellor, with the concurrence of the Master of the Rolls,
 35 to the Registry, and may be required to perform such duties in that office as the Master of the Rolls may appoint. If in the case of either of the said officers a transfer is not effected within the prescribed time the officer not transferred shall be released from office and shall be entitled to such compensation as the Treasury shall consider reason-
 40 able and proper, having regard to his tenure of office, and to all the other circumstances of the case.

Officers in
 Registry of
 Judgments.
 [40 & 41 Vict.
 c. 57. ss. 72,
 73.]

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*Repeals and Savings.*Repeal of
former Acts.

119. From and after the commencement of this Act the several Acts and parts of Acts set forth in the schedule to this Act annexed shall be, and the same are hereby repealed: Provided that this repeal shall not affect—

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Anything duly done or suffered ; or

Any right, privilege, priority, or preference acquired ; or

Any liability, disqualification, disability, fine, forfeiture, or other punishment incurred,

under any enactment so repealed prior to the commencement of this Act, and any proceeding or remedy for the ascertainment, enforcement, or recovery thereof may be instituted, prosecuted, and had as if this Act had not been passed.

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Priority of
assurances
registered
under repealed
Acts.

120. Every assurance or disposition registered under any of the several Acts of Parliament repealed by this Act shall have the same priority as the same would have had if such Acts respectively had not been repealed.

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Act not to
necessitate
registration of
assurances, &c.
executed
before its com-
mencement which
did not then
require
registration.

121. Subject to the provisions of this Act relating to the registration and re-registration in the Registry of Deeds of the judgments and other dispositions heretofore requiring registration or re-registration in the registry of judgments, and subject also to the provisions of this Act relating to the registration of wills where the testator shall die after the commencement of this Act, nothing contained in this Act shall be construed as requiring the registration of any assurance or disposition executed or made before the commencement of this Act, when under the law as it previously existed such assurance or disposition would not have required registration in the Registry of Deeds.

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Effect of
registration
under the Act
of assurance
directed to be
registered
under any
Act of Parlia-
ment.

122. Where the registration in the Registry of Deeds of any assurance or disposition is provided for by any Act of Parliament in force at the *passing of this Act*, such assurance or disposition may be registered under this Act (subject to the provisions of the same). and the provisions of any such Act of Parliament with regard to the registration of any such assurance or disposition shall be satisfied by the registration of the same under this Act.

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Interpretation
clause.

123. In this Act, unless there is something in the context inconsistent therewith,—

“Addition” means description as to residence, title, rank, profession, condition, or occupation.

“Assurance” means any deed, conveyance, or writing in the nature of a conveyance (other than a will), whereby any

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- estate or interest in, or charge upon land is created, appointed, conveyed, assigned, extinguished, evidenced, or affected, at law or in equity.
- 5 "City" includes town, borough, county of a town, county of a city, and county of a town and city.
- "Devisee" means any person taking any estate or interest in land under a will, including an administrator with the will annexed, and includes any person claiming through or under an immediate devisee.
- 10 "Disposition" means any act, instrument, affidavit of ownership or matter affecting land, and any dealing with land, other than an "assurance," as herein-before defined.
- "Execution" includes signature, in the case of assurances not under seal.
- 15 "Grantee" means any party to an assurance other than a grantor, and includes any person claiming through or under an immediate grantee.
- "Grantor" means any party to an assurance by whose execution of such assurance any estate, interest, or charge in or upon
- 20 land, is created, appointed, conveyed, extinguished, evidenced, or affected; and in the case of a disposition affecting land, shall mean every person whose estate or interest in such land is affected by the disposition.
- "High Court" means the High Court of Justice in Ireland, or
- 25 a judge thereof.
- "Judgment mortgage" means an affidavit of ownership registered under the provisions of an Act passed in the session of the thirteenth and fourteenth years of the reign of Her Majesty, chapter twenty-nine, intituled "An Act to amend
- 30 "the laws concerning judgments in Ireland, and any Act "amending the same," or under the provisions of this Act.
- "Land" includes lands, tenements, or hereditaments of any tenure, held for any estate, legal or equitable, and whether corporeal or incorporeal, and any individual share thereof, and
- 35 any estate or interest therein; and also any charge upon, or issuing out of lands, tenements, or hereditaments, whether such charge be or be not secured by a term of years, or by any other estate in lands, tenements, or hereditaments.
- Lease" includes an agreement for a lease.
- 40 "Lord Chancellor" means Lord Chancellor of Ireland, and includes Lord Commissioners and Lord Keeper of the Great Seal of Ireland.

A.D. 1889.

“Master of the Rolls” means Master of the Rolls in Ireland.

“Person” includes any body of persons corporate or unincorporated.

“Prescribed” means prescribed by any general rules made, or forms or directions issued, in pursuance of this Act. 5

“Registrar” and “general rules” mean such “registrar” and “general rules” as are in this Act respectively in that behalf mentioned, and “registrar” includes assistant registrar or deputy registrar.

“Registry office” means the office for registering assurances and dispositions under this Act. 10

“The Treasury” means the Commissioners of Her Majesty’s Treasury.

“Will” includes a codicil and any testamentary document executing a power of appointment. 15

Throughout this Act, wherever an assurance or disposition is mentioned or referred to, an assurance or disposition executed or made either before or after the commencement of this Act is thereby intended, unless the contrary is expressly provided.

SCHEDULE to which the foregoing Act refers.

A.D. 1889.

[NOTE.—Some enactments which have been already repealed are included in this schedule, to avoid the necessity of reference to previous statutes.]

Date of Act.	Title of Act.	Extent of Repeal.
5 6 Anne, c. 2. (I.)	- An Act for the public registering of all deeds, conveyances, and wills that shall be made of any honours, manors, lands, tenements, or hereditaments.	The whole Act.
10		
8 Anne, c. 10. (I.)	- An Act for amending an Act intituled An Act for the public registering of all deeds, conveyances, and wills that shall be made of any honours, manors, lands, tenements, or hereditaments.	The whole Act.
15		
20 8 Geo. I. c. 15. (I.)	- An Act for explaining and amending two several Acts in relation to the public registering of all deeds, conveyances, and wills.	The whole Act.
25		
25 Geo. III. c. 47. (I.)	- An Act for amending the several laws relating to the registering of wills and deeds in the registry office of this Kingdom, and for the better regulating and conducting the business of the said office.	The whole Act.
30		
35 3 Geo. IV. c. 116.	- An Act for the more convenient and effectual registering in Ireland deeds executed in Great Britain.	The whole Act.
40 9 Geo. IV. c. 57.	- An Act to provide for the regulation of the public office for registering memorials of deeds, conveyances, and wills in Ireland.	The whole Act.
45		

A.D. 1889.

Date of Act.	Title of Act.	Extent of Repeal.
10 Geo. IV. c. 50.	“ An Act to consolidate “ and amend the laws “ relating to the man- “ agement and improve- “ ment of His Majesty’s “ woods, forests, parks, “ and chases; of the land “ revenue of the Crown “ within the survey of “ the Exchequer in Eng- “ land; and of the land “ revenue of the Crown “ in Ireland; and for “ extending certain pro- “ visions relating to the “ same to the Isles of “ Man and Alderney.”	Section 62. 5 10 15
2 & 3 Wm. IV. c. 87.	An Act to regulate the office for registering deeds, conveyances, and wills in Ireland.	The whole Act. 20
7 & 8 Vict. c. 90.	An Act for the protection of purchasers against judgments, Crown debts, lis pendens, and com- missions of bankruptcy, and for providing one office for the registering of all judgments in Ire- land; and for amending the laws in Ireland re- specting bankrupts and the limitation of ac- tions.	Sections 2, 3, 4, 5, 10, and 11; the proviso at the end of sec- tion 17; section 21, section 22, so far as relates to the appoint- ment and duty of the Registrar of Judgments, section 40. 25 30 35
11 & 12 Vict. c. 120.	An Act to facilitate the transfer of landed pro- perty in Ireland.	The first nine sections and the schedule.
12 & 13 Vict. c. 104.	An Act to amend the Acts for the more effectual relief of the destitute poor in Ireland.	Section 18. 40
13 & 14 Vict. c. 29.	An Act to amend the laws concerning judgments in Ireland.	The whole Act except section 12. 45
13 & 14 Vict. c. 72.	An Act to amend the laws for the registration of assurances of lands in Ireland.	The whole Act.

Date of Act.	Title of Act.	Extent of Repeal.
13 & 14 Vict. c. 74. - 5	An Act for the better regulation of the office of Registrar of Judgments in Ireland.	The whole Act.
20 & 21 Vict. c. 60. - 10	The Irish Bankrupt and Insolvent Act, 1857.	Section 335, the part in the words following, "and registered according to the provisions of the Act of the seventh and eighth years of the reign of Her present Majesty, chapter 90." Section 336.
21 & 22 Vict. c. 105. - 15	An Act to amend an Act of the thirteenth and fourteenth years of Her present Majesty, to amend the laws concerning judgments in Ireland.	The whole Act, except section 2.
27 & 28 Vict. c. 76. - 25	An Act to make valid defective registration of deeds in certain cases, and to substitute stamps in lieu of the fees now payable on proceedings in the Registrar of Deeds Office in Ireland.	The whole Act, except sections 1 and 2.
34 & 35 Vict. c. 72. - 30 35	An Act for the further protection of purchasers against Crown Debts, and for amending the laws relating to the office of the Registrar of Judgments and other offices of the Court of Chancery, Ireland.	The whole Act, except sections 1, 23, and 24, and Schedule A. Schedules B and C.
38 & 39 Vict. c. 5. -	An Act to amend the law relating to the Registry of Deeds Office, Ireland.	The whole Act.
46 & 47 Vict. c. 20. - 40	The Registry of Deeds Office (Ireland) Holidays Act, 1883.	The whole Act.

Registration of Assurances (Ireland).

A

B I L L

To consolidate and amend the Laws relating to
the Registration of Deeds and Judgments,
and to provide for the Registration of other
assurances, acts, and matters affecting Land
in Ireland.

*(Prepared and brought in by
Mr. Solicitor-General for Ireland, and
Mr. Arthur Balfour.)*

*Ordered, by The House of Commons, to be Printed.
8 July 1889.*

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ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.

[*Price 6d.*]

[Bill 318.]

A

B I L L

TO

Provide for the Registration of Clubs occupying Premises A.D. 1889.
liable to be rated.

WHEREAS it is expedient to regulate the proceedings of persons associating themselves together for purposes of social intercourse and recreation under the name of clubs :

Be it therefore enacted by the Queen's most Excellent Majesty, 5 by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Clubs Act, 1889.

Short title.

2. Any association of persons in England or Wales, of ten or more 10 in number, who shall combine together for the purpose of providing a place of meeting and of providing thereat the means of social intercourse and recreation, and the supply of refreshments, shall be deemed to be a club and to come within the provisions of this Act.

Definition of club.

15 3. Every such association shall be registered under this Act, and if not so registered shall be deemed to be an illegal association.

Registration.

4. The registrar in this Act means the registrar for the time being of friendly societies in England, who shall for the purposes of this Act be the registrar of clubs.

Registrar.

20 5. Every such association as is herein-before described shall, if now subsisting, within three calendar months after the *passing of this Act*, and if hereafter established before it shall commence its operations, be registered under the provisions of this Act.

Registration of existing clubs.

6. The mode of registration shall be as follows :—

25 (a.) The association shall deposit with the registrar two copies of the rules under which it is proposed to carry on the association.

Deposit of copy of rules.

(b.) The association shall pay to the registrar at the time of depositing the copies of the said rules a fee of *two pounds*.

[Bill 37.]

A

A.D. 1889.

(c.) If and so soon as the said rules shall be certified by the registrar, the association shall be deemed to be a club under this Act, and may obtain a certificate of incorporation under this Act, and thereupon its rules shall, so far as the same are not contrary to any express provisions of this Act, continue in force until altered or rescinded as herein-after mentioned.

Club to be
body cor-
porate.

7. Every club now subsisting or hereafter established shall, upon receiving a certificate of incorporation under this Act, become a body corporate by its registered name, having perpetual succession, until terminated or dissolved, and a common seal. 10

Rules of club.

8. The rules of every club registered under this Act shall set forth :—

1. The name of the club and its place of meeting.
2. The amount of the nominal capital of the club and the amount which each member is to contribute thereto. The maximum 15 number of members of which the club is to consist.
3. No person shall be allowed to hold either by himself or by any person or persons as trustee or trustees for him more than one share in the capital of the club.
4. The purposes to which the funds of the club are to be applied. 20
5. The manner in which and the conditions under which the shares may be transferred.
6. The manner of altering and rescinding the rules of the club and of making additional rules.
7. The manner of appointing and removing the committee of 25 management and other officers.
8. The manner of calling general and special meetings of the members.
9. Whether disputes between the club and any of its members shall be settled by the committee of management or by the 30 registrar.
10. Provision for the device, custody, and use of the seal of the club, which shall in all cases bear the registered name thereof.
11. The powers and duties of the committee of management and 35 other officers.
12. Regulations as to the admission of friends of members.
13. The manner in which the club shall be terminated or dissolved.

Property of
club.

9. The property of every club registered under this Act, including 40 all stores of provisions and liquors, shall belong to the members of

such club, and all profits made upon the supply of such provisions and liquors to such members, or their friends, shall become the property of the club, and shall not belong to any person purporting or attempting to carry on any such club for his own benefit. A.D. 1889.

5 Nevertheless, when the property of and the profits derivable from any club is not owned and divided amongst the members of the club, but is owned and received by a proprietor or body of proprietors other than the entire body of members of the club, it shall be termed a proprietary club; but no spirituous liquors shall be
10 sold unless an annual license shall be applied for and obtained by the consent of the licensing authority, and the same fees shall be paid and rules and regulations shall be enforced by those owning or using the aforesaid proprietary club as is the case in the occupation of other premises licensed for the sale of spirituous
15 liquors.

10. The persons intending to establish a club under this Act, shall transmit to the registrar two copies of the rules agreed upon by them for the government of the club, signed by three of such persons, and by the intended secretary, or other officer, and the
20 registrar, if he find that the rules contain all the provisions set forth in section eight of this Act, and that they are in conformity with this Act, shall return one copy of the rules to the secretary, or other officer of the club, with a certificate of incorporation, and shall retain and register the other copy, provided that no club shall
25 be registered under this Act in a name identical with that in which a subsisting club is already registered, or so nearly resembling the same as to be calculated to deceive, unless such subsisting club is in course of being terminated or dissolved, and consents to such registration. The club shall supply to any person requiring the same a
30 complete printed copy of the rules, with a copy of the certificate of incorporation appended thereto, and shall be entitled to charge for every such printed copy of rules a sum not exceeding *one shilling*.

11. Any club under this Act may alter or rescind any rule, or make any additional rule, in the manner its rules direct, and every
35 club under this Act altering or rescinding any rule, or making an additional rule, shall forward two copies of every resolution for rescission of a rule, and of every alteration of, or addition, to its rules, signed by three members, and the secretary, and a statutory declaration of an officer of the club, that the provisions of this
40 section have been complied with, to the registrar, together with a fee of *twenty shillings*, who, if he find that such alteration, addition, or rescission, is in conformity with this Act, shall return one of

A.D. 1889. the copies to the secretary, or other officer of the club, with a certificate of registration, and retain and register the other copy.

Certificates
of incorpora-
tion.

12. Any certificate of incorporation, or of registration, or other document relating to a club under this Act, purporting to be signed by the registrar, shall, in the absence of any evidence to the contrary, 5 be received by the court, and by all courts of law and equity and elsewhere, without proof of the signature, and a printed copy of the rules of a club certified by the secretary, or other officer of the club, to be a true copy of its registered rules, shall, in the absence of any evidence to the contrary, be received as evidence of the rules. 10

Rules to be
binding on
members.

13. The rules of a club under this Act shall be binding on the several members and officers of the club, and on all persons claiming on account of a member or under the rules, all of whom shall be deemed and taken to have full notice thereof.

Change of
name.

14. A club under this Act may change its name by resolution 15 of three fourths of the members present at a meeting called for the purpose, provided that the new name is not identical with that of any club previously registered and still subsisting, or so nearly resembling the same as to be calculated to deceive, unless such subsisting club is in course of being terminated or dissolved and 20 consents to such registration. Notice of the change of name shall be sent to the registrar and registered by him, and he shall give a certificate of registration on the payment of a fee of *twenty shillings*. Such change of name shall not affect any right or obligation of the club or of any member thereof or other person concerned. 25

Dissolution
of club.

15. A club under this Act may terminate or be dissolved—

1. Upon the happening of any event declared by its rules to be the termination of the club.
2. By dissolution in manner prescribed by its rules.
3. By dissolution, with consent of three fourths of the members 30 of the club testified by their signatures as to the instrument of dissolution. The instrument of dissolution shall set forth—
 - (a.) The liabilities and assets of the club in detail;
 - (b.) The number of members and the amount standing to 35 their credit in the books of the club;
 - (c.) The claims of creditors and the provision to be made for their payments;
 - (d.) The intended appropriation or division of the funds and property of the club; 40
 - (e.) The names of one or more persons to be appointed trustees for the special purpose and their remuneration.

A.D. 1889.

Alteration in the instrument of dissolution may be made with the like consent testified in the same manner. The instrument of dissolution, and all alterations therein, shall be registered in the manner provided for the registration of rules, and shall be binding upon all the members of the club.

- 5
4. By winding up, either voluntarily under the supervision of the court or by the court if the court shall so order on the petition of any member authorised by three fourths of the members present at a general meeting of the club specially
- 10 called for the purpose to present the same on behalf of the club, or on the petition of any judgment creditor for not less than *fifty pounds* but not otherwise. General orders for regulating the proceedings of the court under this section may be from time to time made by the authority for the
- 15 time being empowered to make general orders for the court. Notice of the commencement and termination of any dissolution or winding up shall be sent to the registrar and registered by him.

16. A club under this Act may purchase, build, hire, or take upon lease any building for conducting its business and may adapt and furnish the same, and may purchase or hold upon lease any land for the purpose only of erecting thereon a building for conducting the business of the club, and may sell, exchange, or let such building or any part thereof.

Powers to purchase, &c.

- 25 17. If any club now subsisting shall continue to carry on its operations after the expiration of three calendar months after the *passing of this Act*, or if any club hereafter formed, or any person or persons representing himself or themselves to be a club, shall commence operations or shall continue the same without first
- 30 obtaining a certificate of incorporation under this Act, or if any club under this Act makes default in forwarding to the registrar any returns or information by this Act required, or makes a return wilfully false in any respect, the person or persons by whom business shall have been so continued or commenced, or by whom
- 35 such default shall have been made, or who shall have made such wilful false return, shall be liable for every day business is so carried on, or for every such default or false return, upon summary conviction before justices at the complaint of the registrar, to a penalty not exceeding *five pounds*, and every such club and every such person
- 40 or persons shall, over and above the penalties provided by this Act, be amenable to all excise and other penalties provided by any Act or Acts of Parliament now or hereafter in force.

Penalties.

A.D. 1889.

Fees.

18. One of Her Majesty's Principal Secretaries of State may from time to time make regulations respecting the fees, if any, to be paid for the transmission, registration, and inspection of documents under this Act, and generally for carrying this Act into effect. The registrar shall give his certificates in the forms 5 contained in the schedule to this Act respectively.

SCHEDULE.

A.D. 1889.

FORMS OF CERTIFICATE TO BE GIVEN UNDER THIS ACT.*Certificate of Incorporation.*

I, _____ Registrar of
 5 England, hereby certify that the Clubs in
 at _____ Club established
 in the county of _____
 is incorporated under "The Clubs Act, 1889."
 Given under my hand this _____ day of
 10 188 .

Registrar of Clubs.

Certificate of Registration of Alteration of Rules.

I, _____ Registrar of
 15 certify that the foregoing alterations of, or addition to, the rules of the club
 established at _____ in the
 county of _____ are registered under "The Clubs
 Act, 1889."
 Given under my hand this _____ day of
 188 .
 20

Registrar of Clubs.

Certificate of Registration of Change of Name.

I, _____ Registrar of
 25 Clubs in England, hereby certify that the registered name of the
 Club established at _____ in the county of
 is changed from the date hereof to the name following,
 _____ pursuant to "The Clubs
 Act, 1889."
 Given under my hand this _____ day of
 188 .
 30

Registrar of Clubs.

Registration of Clubs.

A

B I L L

To provide for the Registration of Clubs
occupying Premises liable to be rated.

(*Prepared and brought in by
Mr. Webster, Mr. Seager Hunt,
Mr. Cochrane-Baillie, and Mr. Norris.*)

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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HODGKIN, FISHER, & CO., 106, Grafton Street, Dublin.

[*Under 1 oz. Price 1d.*]

[Bill 37.]

Registration of County Electors (Extension of Time) Bill.

MEMORANDUM.

The object of this Bill is to save the expense and inconvenience which will be caused in most counties by the very limited time now allowed for the printing and preparation of the registers of voters.

The revising barrister holds his revision courts between the 8th September and the 12th October. The registers of county electors have this year for the first time to be completed by 20th October, in accordance with the provisions of section 45 of the Municipal Corporations Act, 1882, as applied by section 7 (2) of the County Electors Act, 1888.

Thus there is an interval of only eight days between the date when the last lists must be delivered to the clerk of the county council and the date for the completion of the register. All the borough registers have also to be printed at the same time.

The present Bill, which is limited to making temporary provision for the next two years, extends the time for completing the register to the 30th of November.

A

B I L L

TO

Extend the Time for the Preparation of the Registers of A.D. 1889.
County Electors in England and Wales.

WHEREAS it is provided by the Registration of Electors Acts, 1843 to 1888, that the county registers, that is to say, the registers of the names of county electors and burgesses, shall be completed on or before the twentieth day of October in each
5 year, and shall come into operation on the first day of November following:

And whereas it is expedient to make temporary provision for extending the time allowed for the preparation and printing of such registers:

10 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.—(1.) In each of the years *one thousand eight hundred and*
15 *eighty-nine* and *one thousand eight hundred and ninety*, notwithstanding anything in the Registration Electors Acts, 1843 to 1888, contained, every county register shall be completed on or before the *thirtieth day of November*, and shall come into operation on the *first day of January* following, and shall continue in operation
20 until the next county register comes into operation.

Alteration
of dates for
completing
registers
of county
electors in
1889 and
1890.

(2.) Sub-section two of section forty-five of the Municipal Corporations Act, 1882, shall not apply to any register of county electors completed in either of the said years.

(3.) Provided that nothing in this Act shall alter the dates for
25 the completion and coming into operation of the burgess roll for

[Bill 210.]

A

A.D. 1889. — any municipal borough ; and any new burgess roll for a borough, which comes into operation on the *first day of November* in either of the said years, shall be substituted in the then current county register for so much of that register as consists of the burgess roll for that borough.

5

Short title
and construc-
tion of Act.

2. This Act may be cited as the Registration of County Electors (Extension of Time) Act, 1889, and shall be construed as one with the Registration of Electors Acts, 1843 to 1888.

Registration of County
Electors
(Extension of Time).

A

B I L L

To extend the Time for the Preparation
of the Registers of County Electors
in England and Wales.

(Prepared and brought in by
*Mr. Hobhouse, Sir Lightred Kay-Shuttleworth,
Sir John Dorrington, Mr. Gurdon, Mr. Dugdale,
Sir H. H. Vivian, and Mr. Arthur Acland.*)

*Ordered, by The House of Commons, to be Printed,
8 May 1889.*

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[Under 1 oz. Price 1d.]

[Bill 210.]

A

B I L L

FOR

Making better provision for the Registration of Voters in the A.D. 1889.
Metropolis.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1.—(1.) If a man occupies in immediate succession, whether as owner or tenant, or as lodger, throughout the qualifying period different premises within the metropolitan area, each of which, if so occupied by him continuously throughout that period, would have entitled him to be registered as an occupation voter, he shall be
10 deemed to possess the qualification which would have been conferred upon him by the occupation throughout the qualifying period of the premises occupied by him at its close, and shall be entitled to be registered accordingly.

Successive
occupation of
lodgings and
house.

- (2.) The occupation by a man of the same premises during part
15 of the qualifying period as owner or tenant, and during the remainder thereof as lodger, or vice versa, where such premises are situate within the metropolitan area, shall have the same effect in qualifying him to be registered and to vote as a continuous occupation of the premises by him throughout the qualifying period
20 in the character in which he occupies them at the close of that period would have had.

- (3.) The occupation in immediate succession throughout the qualifying period of different lodgings in different houses within the metropolitan area shall have the same effect for the purpose of
25 qualifying a lodger to be registered and to vote as continuous occupation of the same lodgings.

- (4.) In this section the expression "occupation voter" has the same meaning as in the Registration Act, 1885.

2. A person entitled to be registered as a voter at Parliamentary
30 elections in respect of the successive occupation of a dwelling-house,

[Bill 46.]

A

Power of
amendment
by revising
barrister
enlarged.

A.D. 1889. lodgings, or other qualifying premises shall not be disqualified by reason only that such successive occupation is not stated, or is insufficiently stated in any list of voters or notice of claim; but if such particulars, being either wholly omitted or insufficiently described, are supplied to the satisfaction of the revising barrister 5 before he shall have completed the revision of the list in relation to which such omission or insufficient description occurs, he shall then and there insert the same in the list, or amend the claim accordingly.

Separate
lodger list
in register
abolished.

3. Lists of lodger claimants shall be prepared for revision as 10 heretofore, but from and after the *passing of this Act*, the names of voters qualified as lodgers shall be inserted in the register, together with occupiers, in Division II., in alphabetical or in street order as the circumstances of the case demand; and no separate list of lodgers shall appear in the register of voters for any 15 metropolitan borough.

Forms.

4. The forms contained in the schedule hereto shall be considered as part of this Act, and may be used in substitution for those of a similar character in the schedule to the Registration Act, 1885.

Short title.

5. This Act may be cited as the Registration of Voters 20 (*Metropolis*) Act, 1889.

Definition.

6. The expression "metropolitan area" in this Act means the City of London and the parishes and places mentioned in Schedules A., B., and C. to the *Metropolis Management Act, 1855*, as amended by subsequent Acts. 25

FORM A.
REGISTRATION OF VOTERS (METROPOLIS) ACT, 1889.
SCHEDULE.
CLAIM OF LODGER.

[46.]

To the Overseers of the Parish of _____
I claim to have my name inserted as a Lodger among the Parliamentary Electors for the Borough of _____ Division,
in respect of the qualification named below.

Name of Claimant in full, Surname being First.	Place of Abode.	Nature of Qualification.	Position of Lodgings.	Number and Value of Rooms, and whether Furnished or not.	Name and Address of Landlord or other Person to whom Rent is paid.
<i>e.g.</i> Smith, John.	37, London Street.	Lodgings.	2nd floor.	3 rooms, 5s. per week, unfurnished.	John Brown, 37, London Street.

A 2

Declaration of Lodger Claimant.

I hereby declare that I have, during the twelve calendar months immediately preceding the 15th day of July in this year, occupied as sole tenant (or as joint tenant with _____), and resided in the above-mentioned lodgings, and that those lodgings are of a clear yearly value, if let unfurnished, of _____ pounds or upwards.

Dated the _____ day of _____ 188_____
Signature of Claimant _____

Declaration of Witness.

I, the undersigned, hereby declare that I have witnessed the signature of the above-named _____ to the above claim at the date stated, and that I believe the above claim to be correct.

Dated the _____ day of _____ 188_____
Signature of Witness _____
Residence of Witness _____
Occupation or Calling _____

It shall be an instruction to the Overseers or other authority that, in inserting the Lodgers in the Occupiers' List, only the particulars of the first four columns are to be inserted. "Position of Lodgings" supplying the "Description of Qualifying Property" is to be inserted thus :—" 37, London Street, 2nd floor."

A.D. 1889.

FORM B.

REGISTRATION OF VOTERS (METROPOLIS) ACT, 1889.

To the Overseers of the Parish of _____

I claim to have my name inserted among the Parliamentary Electors for the Parliamentary Borough of _____
(_____ Division), in respect of the qualification named below :—

Name of Claimant in full, Surname being first.	Present Place of Abode.	Description of Qualifying Premises now occupied.	Description of Qualifying Premises previously occupied, and where situate.
(e.g.) Smith, John.	33, Suffolk Street.	(a.) Dwelling House. or, (b.) Lodgings. 2nd floor unfurnished ; 6s. per week.	Lodgings : 20, Dover Street. 2nd floor unfurnished ; 5s. per week.

and I hereby declare that I have occupied the above-named premises in immediate succession, and from the 15th day of July 188 to the 15th day of July 188 .

Dated _____.

Signed _____.

Registration of Voters
(Metropolis).

A

B I L L

For making better provision for the
Registration of Voters in the Me-
tropolis.

(Prepared and brought in by
*Mr. Causton, Mr. Sydney Burton, Mr. Cremer,
Mr. Howell, Mr. Lawson, Mr. Montagu,
Mr. Octavius V. Morgan, Mr. Pickergill,
Mr. James Rowlands, and Mr. James Stuart.*)

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[Under] oz. Price 1d.]

[Bill 46.]

Regulation of Railways Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Power to order certain provisions to be made for public safety.
 2. Power to order works at crossings.
 3. Enforcement of orders of Board of Trade.
 4. Returns of overtime to Board of Trade.
 5. Penalty for avoiding payment of fare.
 6. Power to make byelaws as to stations.
 7. Short title.
-

A
B I L L

TO

Amend the Regulation of Railways Acts; and for other purposes. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1.—(1.) The Board of Trade may from time to time order a railway company to do, within a time limited by the order, any of the following things:
- Power to order certain provisions to be made for public safety.
- 10 (a.) To adopt the block system on all or any of their lines;
- (b.) To provide for the interlocking of points and signals on all or any of their lines;
- (c.) To provide for all their trains carrying passengers continuous brakes complying with the following requirements, namely: [See 41 Vict. c. 20.]
- 15 (i.) The brake must be instantaneous in action, and capable of being applied by the engine-driver and guards;
- (ii.) The brake must be self-acting in the event of any failure in its continuity;
- (iii.) The brake must be capable of being applied to every vehicle of the train, whether carrying passengers or not;
- 20 (iv.) The brake must be in regular use in daily working;
- (v.) The materials of the brake must be of a durable character, and easily maintained and kept in order;
- (d.) To adopt a system of coupling for the time being approved by the Board of Trade.
- 25 (2.) Where an order is made under this section for the adoption of any system of coupling on a railway, it shall require every owner of any vehicles used on the railway to make such alterations, if any, in the vehicles so used as may be necessary for adapting them to that system, and a railway company shall not use or permit the use on their railway of any vehicle not so adapted.

[Bill 333.]

A 2

A.D. 1889.

Power to
order works
at crossings.

2.—(1.) Whenever it is made to appear to the Board of Trade that the execution of any work referred to in this section is required in the interests of the public safety, the Board may order any railway company to provide a subway, bridge, or footbridge at any station of the company, or to provide a subway, bridge, footbridge, 5 or lodge at any place where any railway of the company crosses a public carriage road on the level.

26 & 27 Vict.
c. 92.51 & 52 Vict.
c. 25.

(2.) The provisions of section eight of the Railways Clauses Act, 1863, and of section sixteen of the Railway and Canal Traffic Act, 1888, shall apply in the case of any work the execution of which 10 is directed by the Board of Trade in pursuance of this section.

(3.) An order may be made under this section with respect to two or more companies, and in such case the provisions of section fourteen of the Railway and Canal Traffic Act, 1888, with respect to orders of the Railway and Canal Commission shall apply. 15

Enforce-
ment of
orders of
Board of
Trade.

3. If default is made in compliance with any order made by the Board of Trade in pursuance of this Act, the Railway and Canal Commission may, on the application of the Board of Trade, enjoin obedience to the order, and thereupon the order may be enforced as if it were made by the Commission for the purpose 20 of carrying into effect any of the provisions of the Acts under which the Commission have jurisdiction.

Returns of
overtime to
Board of
Trade.

4.—(1.) Every railway company shall make to the Board of Trade periodical returns as to the persons in the employment of the company whose duty involves the safety of trains or pas- 25 sengers, and who are employed for more than *twelve hours* at a time.

(2.) The returns shall be delivered at such intervals, and shall be in such form, and contain such particulars, as the Board of Trade from time to time direct. 30

(3.) The provisions of sections nine and ten of the Regulation of Railways Act, 1871, with respect to penalties, shall apply to returns under this section.

Penalty for
avoiding
payment of
fare.[See 8 Vict.
c. 20, ss. 103,
104.]

5.—(1.) Every passenger by a railway shall, on request by an officer of a railway company, either produce a ticket showing that 35 his fare is paid, or pay his fare, or give the officer his name and address; and in case of default shall be liable on summary conviction to a fine not exceeding *forty shillings*.

(2.) If a passenger having failed either to produce a ticket showing that his fare is paid, or to pay his fare, refuses, on request 40 by an officer of a railway company, to give his name and address,

any officer of the company or any constable may detain him until he can be conveniently brought before some justice or otherwise discharged by due course of law. A.D. 1889.

- (3.) If any person—
- 10 (a.) Travels or attempts to travel on a railway without having previously paid his fare, and with intent to avoid payment thereof; or
- (b.) Having paid his fare for a certain distance, knowingly and wilfully proceeds by train beyond that distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; or
- (c.) Having failed to pay his fare, gives in reply to a request by an officer of a railway company a false name or address, he shall be liable on summary conviction to a fine not exceeding
- 15 *forty shillings*, or, in the case of a second or subsequent offence, either to a fine not exceeding *twenty pounds*, or in the discretion of the court to imprisonment for a term not exceeding *one month*.
- (4.) The liability of an offender to punishment under this section shall not prejudice the recovery of any fare payable by him.
- 20 6. The power conferred on a railway company by the Railways Clauses Consolidation Act, 1845, to make byelaws subject to disallowance by the Board of Trade, shall include power to make byelaws for maintaining order in, and regulating the use of, railway stations and the approaches thereto. Power to make bye-laws as to stations.
- 25 7.—(1.) This Act may be cited as the Regulation of Railways Act, 1889. Short title.
- (2.) This Act and the Regulation of Railways Acts, 1840 to 1871, may be cited collectively as the Regulation of Railways Acts, 1840 to 1889.

Regulation of Railways.

A

B I L L

To amend the Regulation of Railways
Acts; and for other purposes.

(*Prepared and brought in by*
Sir Michael Hicks-Beach and Baron Henry
De Worms.)

Ordered, by The House of Commons to be Printed,
15th July 1889.

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[*Price 1d.*]

[Bill 333.]

Regulation of Railways Bill (No. 2).

ARRANGEMENT OF CLAUSES.

Clause.

1. Power to order certain provisions to be made for public safety.
 2. Enforcement of orders of Board of Trade.
 3. Returns of overtime to Board of Trade.
 4. Penalty for avoiding payment of fare.
 5. Power to make byelaws as to stations.
 6. Short title.
-

A

B I L L

TO

Amend the Regulation of Railways Acts; and for other purposes. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1.—(1.) The Board of Trade may from time to time order a railway company to do, within a time limited by the order, and subject to any exceptions or modifications allowed by the order, any of the following things:
- Power to order certain provisions to be made for public safety.
- 10 (a.) To adopt the block system on all or any of their railways open for the public conveyance of passengers;
- (b.) To provide for the interlocking of points and signals on or in connexion with all or any of such railways;
- 15 (c.) To provide for and use on all their trains carrying passengers continuous brakes complying with the following requirements, namely:
- (i.) The brake must be instantaneous in action, and capable of being applied by the engine-driver and guards;
- (ii.) The brake must be self-applying in the event of any failure in the continuity of its action;
- 20 (iii.) The brake must be capable of being applied to every vehicle of the train, whether carrying passengers or not;
- (iv.) The brake must be in regular use in daily working;
- (v.) The materials of the brake must be of a durable character, and easily maintained and kept in order.
- 25 2. If default is made in compliance with any order made by the Board of Trade in pursuance of this Act, the Railway and Canal Commission may, on the application of the Board of Trade, enjoin obedience to the order, and thereupon the order may be enforced as if it were made by the Commission for the purpose
- Enforcement of orders of Board of Trade.

[Bill 360.]

A 2

A.D. 1889. — of carrying into effect any of the provisions of the Acts under which the Commission have jurisdiction.

Returns of
overtime to
Board of
Trade.

3.—(1.) Every railway company shall make to the Board of Trade periodical returns as to the persons in the employment of the company whose duty involves the safety of trains or passengers, and who are employed for more than *twelve hours* at a time.

(2.) The returns shall be delivered at such intervals, and shall be in such form, and contain such particulars, as the Board of Trade from time to time direct. 10

(3.) The provisions of sections nine and ten of the Regulation of Railways Act, 1871, with respect to penalties, shall apply to returns under this section.

Penalty for
avoiding
payment of
fare.

4.—(1.) Every passenger by a railway shall, on request by an officer of a railway company, either produce a ticket showing that his fare is paid, or pay his fare, or give the officer his name and address; and in case of default shall be liable on summary conviction to a fine not exceeding *forty shillings*. 15

(2.) If a passenger having failed either to produce a ticket showing that his fare is paid, or to pay his fare, refuses, on request by an officer of a railway company, to give his name and address, any officer of the company or any constable may detain him until he can be conveniently brought before some justice or otherwise discharged by due course of law. 20

(3.) If any person— 25

(a.) Travels or attempts to travel on a railway without having previously paid his fare, and with intent to avoid payment thereof; or

(b.) Having paid his fare for a certain distance, knowingly and wilfully proceeds by train beyond that distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; or 30

(c.) Having failed to pay his fare, gives in reply to a request by an officer of a railway company a false name or address, he shall be liable on summary conviction to a fine not exceeding *forty shillings*, or, in the case of a second or subsequent offence, either to a fine not exceeding *twenty pounds*, or in the discretion of the court to imprisonment for a term not exceeding *one month*. 35

(4.) The liability of an offender to punishment under this section shall not prejudice the recovery of any fare payable by him. 40

5. The power conferred on a railway company by the Railways
Clauses Consolidation Act, 1845, to make byelaws subject to dis-
allowance by the Board of Trade, shall include power to make
byelaws for maintaining order in, and regulating the use of,
5 railway stations and the approaches thereto.

Power to
make bye-
laws as to
stations.

6.—(1.) This Act may be cited as the Regulation of Rail- Short title.
ways Act, 1889.

(2.) This Act and the Regulation of Railways Acts, 1840 to 1871,
may be cited collectively as the Regulation of Railways Acts, 1840
10 to 1889.

Regulation of Railways
(No. 2).

A

B I L L

To amend the Regulation of Railways
Acts; and for other purposes.

*(Prepared and brought in by
Sir Michael Hicks-Beach and
Baron Henry De Worms.)*

*Ordered, by The House of Commons, to be Printed,
30 July 1889.*

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[Price 1d.]

[Bill 360.]

A
B I L L

TO

Abolish Prosecutions for the expression of opinion on
matters of Religion. A.D. 1889

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

5. **1.** After the *passing of this Act* no criminal proceedings shall be instituted against any person for schism, heresy, blasphemous libel, blasphemy at common law, or atheism. Abolition of proceedings for blasphemy, &c.
- 2.** The Acts contained in the schedule to this Act are hereby repealed to the extent in the third column of that schedule Repeal.
- 10 mentioned.
- 3.** Provided that nothing herein contained shall be deemed to Saving. affect the provisions of an Act passed in the nineteenth year of His late Majesty, King George the Second, chapter twenty-one, intituled "An Act more effectually to prevent profane cursing and
15 swearing."
- 4.** This Act may be cited as the Religious Prosecutions Abolition Short title. Act, 1889.

A.D. 1889.

SCHEDULE.

Session and Chapter.	Title or Short Title.	Extent of Repeal.	
1 Edw. 6. c. 1.	An Act against such as shall un-reverently speak against the Sacrament of the body and blood of Christ, commonly called the Sacrament of the Altar ; and for the receiving thereof in both kinds.	The whole Act.	5
1 Eliz. c. 2. s. 3.	An Act for the uniformity of Common Prayer and Divine Service in the Church and the Administration of the Sacra-ments.	In section 3 the words "shall in any interludes, plays, songs, rhymes, or by other open words, declare or speak anything in the derogation, depraving, or despising of the same book, or of anything therein contained or any part thereof, or".	10 15
9 & 10 Wm. 3. c. 35.	An Act for the more effectual suppressing of blasphemy and profaneness.	The whole Act.	20
21 Geo. 3. c. 49.	An Act for preventing certain abuses and profanations on the Lord's Day.	In preamble the words "under pretence of inquiry into religious doctrines and explaining texts of Holy Scripture, debates have been frequently held on the evening of the Lord's Day concerning divers texts of Holy Scripture by persons unlearned and incompetent to explain the same to the corrup-tion of good morals and to the great encouragement of irreligion and profaneness." In section 1 the words "or for publicly debating on any subject whatever".	25 30 35
6 Geo. 4. c. 47.	An Act for restricting the punish-ment of leasing making, sedition, and blasphemy in Scotland.	So much of the Act as relates to the crime of blasphemy.	

Religious Prosecutions Abolition.

A

BILL

To abolish Prosecutions for the expression of opinion on matters of Religion.

(Prepared and brought in by
Mr. Bradlaugh, Mr. Hunter, Mr. Jacob Bright,
Mr. Walter McLaren, and Mr. Picon.

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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[Under 1 oz. Price 3d.]

[Bill 1.]

Removal of Wrecks Act (1877) Amendment Bill.

MEMORANDUM.

The Removal of Wrecks Act, 1877, authorises the removal of such wrecks only as are or are likely to be an obstruction or danger to navigation, and doubts have been raised if the Act extends to the removal of wrecks which are an obstruction or danger to lifeboats in their work of saving life and property.

The proposal of this Bill is to extend the Act of 1877 so as to make it meet the case of wrecks which are likely to hamper or endanger the movements of the lifeboats of the Royal National Life Boat Institution.

A

B I L L

TO

Amend the Removal of Wrecks Act, 1877.

A.D. 1889.

WHEREAS it is expedient to amend the Removal of Wrecks Act, 1877:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Removal of Wrecks Act, 1877, Amendment Act, 1889." Short title.

2. In this Act the term "the principal Act" shall mean the Removal of Wrecks Act, 1877. Definition of the term "the principal Act." 40 & 41 Vict. c. 16.

3. In this Act—
The term "lifeboat service" means the saving or attempted saving of vessels or of life or property on board vessels wrecked or aground or sunk, or in danger of being wrecked or getting aground or sinking. Interpretation of term.

4. The fourth and fifth sections of the principal Act shall be read as if the words "or to lifeboats of the Royal National Life-boat Institution engaged in lifeboat service" were inserted after the word "navigation" in each of the said sections respectively. Amendment of sections 4 and 5 of the principal Act.

5. The fifth section of the principal Act shall be read as if the words "or on or near any rock, shoal, or bank" were inserted after the word "seashore" in the said section. Amendment of section 5 of the principal Act.

6. The principal Act and this Act shall be read and construed together as one Act, and may be cited together for all purposes as "The Removal of Wrecks Acts, 1877 and 1889." Construction of the Act.

[Bill 3.]

A

**Removal of Wrecks Act
(1877) Amendment.**

A

B I L L

To amend the Removal of Wrecks Act,
1877.

*(Prepared and brought in by
Sir Edward Birkbeck, Mr. Marjoribanks,
Mr. Penrose Fitzgerald, Sir Charles Palmer,
Mr. Byrne, Lord Charles Hersford,
Mr. William Corbet, and Mr. James Lowther.)*

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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and 32, Abingdon Street, Westminster, S.W.; or
ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FLEGGS, & CO., 104, Grafton Street, Dublin.

[Under 1 oz. Price 1d.]

[Bill 3.]

Representation of the People (Scotland) Bill.

MEMORANDUM.

A considerable number of householders in the North and West of Scotland having been disfranchised through their houses not being rated for poor rates by the parochial authorities and assessors, and the names of all who are not so rated being excluded from the register of voters, it is proposed by this Bill to remove this disqualification imposed upon householders through no fault of their own.

The amending clause is taken verbatim et literatim from Act 48 & 49 Vict. c. 17. s. 2, which applies to Ireland only at present.

A
B I L L

TO

Amend "the Representation of the People Act, 1884," so far A.D. 1889.
as it relates to Scotland.

WHEREAS doubts have arisen with respect to the interpretation of the Representation of the People Act, 1884.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and
5 Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. For the purpose of the household qualification enacted by the Representation of the People Act, 1884, the separate rating of a dwelling-house, or part of a dwelling-house separately occupied,
10 shall not be necessary to entitle an inhabitant occupier of the same to be registered as a voter in respect thereof. Separate rating not necessary for registration.

2. This Act may be cited as the Representation of the People
Amendment (Scotland) Act, 1889. Short title.

3. This Act shall apply to Scotland only.

Application
of Act.

Representation of the People (Scotland).

▲

B I L L

To amend "the Representation of the
People Act, 1884," so far as it relates
to Scotland.

(*Prepared and brought in by*
Dr. McDonald, Dr. Clark,
Mr. Macdonald Cameron, and Mr. Macintosh.)

Ordered, by The House of Commons, to be Printed,
20 June 1889.

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[*Price 1d.*]

[Bill 282.]

Revenue Bill.

ARRANGEMENT OF CLAUSES.

PART I.

CUSTOMS.

Clause.

1. Prohibition of importation of certain books and compressed tobacco.
 2. Prohibition of importation of imitation coin.
 3. Shippers of fuel to be used on board only, to be exporters within 44 & 45 Vict. c. 21.
 4. Conveyance of explosives from Isle of Man to England, Scotland, or Ireland, to be deemed exportation and importation.
 5. Repeal of certain words in 39 & 40 Vict. c. 36. s. 101, 47 & 48 Vict. c. 62. s. 2.
 6. Dutiable matter not to be separated from other matter taken from warehouse as unfit for consumption.
 7. Payment of rewards.
 8. Substitution of references to 39 & 40 Vict. c. 36. for references to the repealed Act 16 & 17 Vict. c. 107.
-

PART II.

TAXES.

9. Consideration for redemption or purchase of land tax.
 10. Rate of discount on pre-payment of income tax.
 11. Amendment of 43 & 44 Vict. c. 19. ss. 36, 37, 114, and of 47 & 48 Vict. c. 62. s. 6.
 12. Allowance of income tax, Schedule A. to friendly societies.
 13. Amendment of law as to allowances to clerks to Commissioners of Taxes.
 14. Proceedings against collectors and others in relation to taxes.
-

[Bill 315.]

a

PART III.

STAMPS.

Clause.

- 15 Amendment of section eighteen of 52 & 53 Vict. c. 7.
 16. Duty of one penny upon a lease or tack in Scotland may be denoted by adhesive stamp.
 17. Amendment of 46 & 47 Vict. c. 30. s. 7, as to shares in colonial registers.
 18. Amendment of s. 11 of 47 & 48 Vict. c. 62.
 19. Policies of insurance against accident: composition by agreement for stamp duty thereon.
-

PART IV.

EXCISE.

20. Payment of allowances on certain spirits under 48 & 49 Vict. c. 51. s. 3.
 21. Fractions of a penny not to be charged upon excise licences.
 22. Expiration of tobacco licenses taken out by retailers of intoxicating liquors.
 23. Penalty for contravention of terms of excise licence.
 24. Amendment of 43 & 44 Vict. c. 24.
 25. Prohibition of the sale of methylated spirits on Sunday.
 26. Consolidation of law relating to licences for the manufacture and sale of methylated spirits.
 27. Meaning of "sweets or made wines."
 28. Consolidation of law as to use of unjust scales, &c.
-

PART V.

MISCELLANEOUS.

29. Undisposed of residue of sailors effects.
30. Remission of fees payable to public department out of public money.

Clause.

31. Accruer and payment of salaries, &c. charged on Consolidated Fund.
32. Explanation of law as to annuities under Greenwich Hospital Act.
33. Re transfer of certain charges transferred under 29 & 30 Vict. c. 62.
34. Definition of "Treasury."
35. Repeal.
36. Short title.

SCHEDULE.

A

B I L L

TO

Amend the Law relating to the Customs and Inland Revenue, A.D. 1889.
and for other purposes connected with the Public Revenue
and Expenditure.

BE it enacted by the Queen's most Excellent Majesty, by and
with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled.
and by the authority of the same, as follows :

5

PART I.

CUSTOMS.

1. The following goods shall from and after the *passing of this* Prohibition
of importa-
tion of
certain
books, and
compressed
tobacco.
49 & 50 Vict.
c. 33.
Act, be included amongst the goods enumerated and described
on the table of prohibitions and restrictions contained in section
10 forty-two of the Customs Consolidation Act, 1876 ; namely,
Books, first published in any country or state other than the
United Kingdom, wherein, under the International Copyright
Act, 1876, or any other Act, or any Order in Council made under
the authority of any Act, there is a subsisting copyright in the
15 United Kingdom, printed or reprinted in any country or state
other than the country or state in which they were first
published, and as to which the owner of the copyright, or his
agent in the United Kingdom, has given to the Commissioners
of Customs in the manner prescribed by section forty-four of
20 the Customs Consolidation Act, 1876, a notice in such form
and giving such particulars as those Commissioners require,
and accompanied by a declaration as provided in that section.
Tobacco cut and compressed by mechanical or other means.
[Bill 815.]

A

A.D. 1889.

Prohibition
of importa-
tion of
imitation
coin.

89 & 40 Vict.
c. 36.

2. (1.) It shall not be lawful to import or bring into the United Kingdom any imitation coin as defined by this Act, and any such imitation coin shall be included among the goods enumerated and described in the table of prohibitions and restrictions inwards contained in section forty-two of the Customs Consolidation Act, 1876, 5 and the law relating to the Customs shall apply accordingly.

(2.) Provided that the Commissioners of Customs, acting under the direction of the Treasury, may permit the importation of any imitation coin in a particular instance if they are satisfied that such importation is for the purposes of knowledge or art, or any exhibi- 10 tion or collection, or for any lawful purpose, and that the imitation coin is not likely to circulate as current coin, or to be otherwise used for deceiving the public.

(3.) Each of the following articles, if not a British coin, shall be an imitation coin within the meaning of this Act, that is to say— 15

[See
33 & 34 Vict.
c. 10. s. 5.]

(a.) Any piece of gold, silver, copper, or bronze, or of metal or mixed metal, purporting to be a British coin or a token for British money, or bearing any word or device which indicates or may reasonably be taken to indicate that the holder thereof is entitled to demand any value in British money 20 denoted thereon ; and

[See
46 & 47 Vict.
c. 45. s. 2.]

(b.) Any medal, cast, coin, or other like thing made wholly or partially of metal or any metallic combination, and resembling in size, figure, and colour any British coin, or having thereon a device resembling any device on any British coin, or being so 25 formed that it can, by gilding, silvering, colouring, washing, or other like process, be so dealt with as to resemble any British coin.

(4.) In this section the expression "British coin" means any coin coined in or for any of Her Majesty the Queen's mints or 30 lawfully current by virtue of any proclamation or otherwise in any part of Her Majesty's dominions, whether within the United Kingdom or otherwise, and the expression "British money" means money expressed in the terms of any British coin.

Shippers
of fuel to be
used on
board only,
to be ex-
porters
within
44 & 45 Vict.
c. 21.

3. Where a ship touching at a port in the United Kingdom for 35 the purpose only of taking in coals or fuel for use, and proceeding on a voyage to a foreign port, is not, under the regulations of the Commissioners of Customs, required to clear, every person who ships such coals or fuel shall, for the purposes of section eleven of the Customs and Inland Revenue Act, 1881, be deemed to be the 40 exporter of the coals or fuel.

Provided that the period within which the specification mentioned in that section is required to be delivered shall, in the case of such coals or fuel, be reckoned from the time of shipment.

A.D. 1889.

4. The conveyance from the Isle of Man to any port in England,
 5 Scotland, or Ireland, of any explosives within the meaning of the Explosives Act, 1875, on the unloading or landing of which any restriction is imposed by or in pursuance of that Act, or of any explosive substance within the meaning of the Explosives Substances Act, 1883, which is liable to forfeiture under that Act,
 10 shall be deemed to be exportation from the Isle of Man and importation into that port, and all the provisions of the Customs Acts relating to the exportation and importation of goods shall apply accordingly.

Conveyance of explosives from Isle of Man to England, Scotland, or Ireland, to be deemed exportation and importation.
 38 & 39 Vict. c. 17.
 46 & 47 Vict. c. 3.

5.—(1.) Section one hundred and one of the Customs Consolidation Act, 1876, is hereby repealed to the following extent, namely, the words “other than spirits or tobacco,” the words “not
 15 “having on board any drawback or other goods liable to duties of “Customs or Excise,” and the words “not entitled to drawback or “liable to duties of Customs or Excise.”

Repeal of certain words in 39 & 40 Vict. c. 36. s. 101.
 47 & 48 Vict. c. 62. s. 2.

20 (2.) Section two of the Revenue Act, 1884, is also hereby repealed to the following extent, namely, the words “not entitled “to any drawback, or liable to any duties of Customs or Excise.”

6. Where any goods of a kind or description liable to a duty of Customs have been taken from a warehouse, either with or without
 25 the permission of an officer of Customs, as unfit for consumption, by reason of the mixture therewith of any other matter, any person who separates the goods from such other matter shall be deemed to be dealing with the goods with intent to defraud Her Majesty, and shall be liable to the penalties imposed by, and may
 30 be dealt with under, section one hundred and eighty-six of the Customs Consolidation Act, 1876.

Dutiable matter not to be separated from other matter taken from warehouse as unfit for consumption.

7. Section two hundred and fifteen of the Customs Consolidation Act, 1876, shall be read as if the following words were added thereto:—

Payment of rewards.

35 And all moneys similarly payable to persons employed by or under the Post Office may be paid to the Postmaster-General, whose receipt shall be a sufficient discharge for the same, and who shall be at liberty to apply the same for the benefit of the officers of the Post Office, or any of them, as he may in his discretion deem
 40 best from time to time.

[315.]

A 2

A.D. 1889.
Substitu-
tion of
references
to 39 & 40
Vict. c. 36.
for refer-
ences to the
repealed Act
16 & 17 Vict.
c. 107.

8. References in any Act to sections one hundred and ninety-five, one hundred and ninety-six, and one hundred and ninety-seven of the Customs Consolidation Act, 1853, shall be construed as references to sections one hundred and sixty-five, one hundred and sixty-six, and one hundred and sixty-seven of the Customs Con- 5
solidation Act, 1876.

PART II.

TAXES.

Considera-
tion for
redemption
or purchase
of land tax.

9.—(1.) Where the consideration for the redemption or purchase of any land tax under the several Acts in force in that behalf 10
is a sum of stock, the stock shall be Two and Three-quarters per Cent. Consolidated Stock; and where the consideration is a sum of money, that sum shall be the amount calculated and ascertained by reference to the price of such stock.

(2.) The tables annexed to any of the said Acts shall be construed 15
as if for references therein to Three per cent. Bank Annuities were substituted references to Two and Three-quarters per Cent. Consolidated Stock, and any forms contained in, or prescribed by, any of the said Acts may be altered so as to give effect to this section. 20

Rate of
discount on
pre-payment
of income
tax.

10. The allowance to be made under section one hundred and forty-one of the Act of the session held in the fifth and sixth years of Her Majesty's reign, chapter thirty-five, shall be at the rate of *two pounds ten shillings* per centum per annum in lieu of the rate of four pounds per centum per annum. 25

Amend-
ment of
43 & 44 Vict.
c. 19. ss. 36,
37, 114,
and of
47 & 48 Vict.
c. 62. s. 6.

11.—(1.) So much of section one hundred and fourteen of the Taxes Management Act, 1880, as allows a collector of land tax to retain any excess of or surplus land tax is hereby repealed.

(2.) Sections thirty-six and thirty-seven of the Taxes Manage-
ment Act, 1880, shall be read as if the expression "the Board" 30
were therein substituted for the expression "the Treasury" wherever the last-mentioned expression occurs in either of those sections.

(3.) Sub-section three of section six of the Revenue Act, 1884, shall be read as if the words "with the sanction of the Com- 35
missioners of Her Majesty's Treasury" were omitted therefrom, and sub-section four of the said section shall be read as if the

words "with the sanction of the Commissioners of the Treasury" A.D. 1889.
were omitted therefrom.

12. Any friendly society which is legally established under any Act of Parliament relating to friendly societies, and which does
5 not assure or grant to any individual any sum or annuity to an amount which would debar that society from the benefit of the exemption granted to friendly societies by the Act of the session held in the fifth and sixth years of Her Majesty's reign, chapter thirty-five, in respect of their stocks, dividends, and interest chargeable
10 under Schedule C. of the said Act shall, in addition to any exemption from income tax which the society may by law enjoy, be entitled to the like allowances in respect of any charge under Schedule (A.) to be made on the lands, tenements, hereditaments, or heritages belonging to the society as are granted to colleges and
15 other properties mentioned in No. VI. of that schedule in section sixty-one of the said Act.

Allowance of income tax, Schedule A. to friendly societies.

13. *It shall be lawful for the Commissioners of Inland Revenue, with the consent of the Treasury, to grant, in addition to the allowances and remuneration payable to clerks to Commissioners*
20 *of Income Tax and Inhabited House Duties by virtue of the Taxes Management Act, 1880, such further sums for expenses incurred other than necessary office expenses, and by way of additional remuneration as they may deem expedient.*

Amendment of law as to allowances to clerks to Commissioners of Taxes.

- 14.—(1.) The provisions of the Taxes Management Act, 1880,
25 shall not affect any prosecution on indictment or criminal letters for any felony or misdemeanour, provided that no person shall be proceeded against twice in respect of the same offence.

Proceedings against collectors and others in relation to taxes.

- (2.) A collector of land tax, income tax, or inhabited house duties shall for the purpose of any indictment or criminal letters
30 for any felony or misdemeanour committed by him as such collector, be deemed to be employed in the public service of Her Majesty, and to be a clerk, officer, or servant of the Commissioners of Inland Revenue.

PART III.

STAMPS.

35

- 15.—(1.) Section eighteen of the Customs and Inland Revenue Act, 1889, shall not apply to:—

Amendment of section 18 of 52 & 53 Vict. c. 7.

A.D. 1889.

- (a) an instrument containing a contract for the purchase of any property and executed or signed by or on behalf of the purchaser only; or
- (b) an instrument containing a contract for the sale or purchase of any copyhold or customary lands or hereditaments which must pass to the purchaser by surrender or grant, or of any property situate out of the United Kingdom;

but any such instrument and any instrument made subsequently thereto for the purpose of vesting such lands, hereditaments, or property in the purchaser, shall be chargeable with the stamp duty with which it would have been chargeable if the said Act had not been passed.

(2.) In any case in which the ad valorem conveyance duty has, in conformity with the said section, been paid upon an instrument containing a contract, and an instrument has been subsequently made for the purpose of vesting the property contracted to be sold, the Commissioners of Inland Revenue shall, on application and on production of both the instruments, either denote on the subsequent instrument the payment of the ad valorem duty under the provision contained in section fourteen of the Stamp Act, 1870, or transfer the ad valorem duty to that instrument.

Duty of one penny upon a lease or tack in Scotland may be denoted by adhesive stamp.

16. The duty of one penny upon a lease or tack, or agreement for a lease or tack, in Scotland, of any dwelling-house or tenement, or part of a dwelling-house or tenement, for the definite term of a year at a rent not exceeding ten pounds per annum, or upon the duplicate or counterpart of any such instrument, may be denoted by an adhesive stamp which is to be cancelled by the person by whom the instrument is first executed.

Amendment of 46 & 47 Vict. c. 30. s. 7, as to shares in colonial registers.

17. Notwithstanding provision (b) in section seven of the Companies (Colonial Registers) Act, 1883, the share or other interest of a deceased member, registered in a Colonial register under that Act, who shall have died domiciled elsewhere than in the United Kingdom, shall, so far as relates to British duties, not be deemed to be part of his estate and effects situated in the United Kingdom, for or in respect of which probate or letters of administration is or are to be granted, or whereof an inventory is to be exhibited and recorded.

Amendment of s. 11 of 47 & 48 Vict. c. 62.

18. The proviso to section eleven of the Revenue Act, 1884, is hereby repealed, and that section shall be read as if the

following proviso were therein inserted in lieu of the repealed A.D. 1889. proviso :

Provided that where a policy of life assurance has been effected with any insurance company by a person who shall die domiciled elsewhere than in the United Kingdom, the production of a grant of representation from a court in the United Kingdom shall not be necessary to establish the right to receive the money payable in respect of such policy.

19. Whereas a practice has arisen of inserting in newspapers and other publications notices or advertisements which purport to insure the payment of money upon the death of the holder or bearer of the newspaper or publication containing the notice or advertisement only from accident or violence or otherwise than from a natural cause, and doubts have arisen as to the liability of such notices or advertisements to the stamp duty of one penny imposed by the Stamp Act, 1870, upon a policy of insurance for any payment agreed to be made upon the death of any person only from accident or violence or otherwise than from a natural cause, and it is expedient to remove such doubts and to make such provisions in relation to composition for the stamp duty as are in this section contained : Be it therefore enacted as follows :—

Policies of insurance against accident : composition by agreement for stamp duty thereon.

33 & 34 Vict. c. 97.

(a.) The expression "policy of insurance against accident" as used in this section means a policy of insurance for any payment agreed to be made upon the death of any person only from accident or violence or otherwise than from a natural cause, or as compensation for personal injury, and the term "policy" as defined in section one hundred and seventeen of the Stamp Act, 1870, shall be construed, in relation to a policy of insurance against accident, as including any notice or advertisement in a newspaper or other publication which purports to insure the payment of money upon the death of or injury to the holder or bearer of the newspaper or publication containing the notice only from accident or violence or otherwise than from a natural cause :

(b.) Where any person or body, corporate or unincorporate, issuing policies of insurance against accident, shall, in the opinion of the Commissioners of Inland Revenue, so carry on the business of such insurance as to render it impracticable or inexpedient to require that the stamp duty of one penny as imposed by the Stamp Act, 1870, be charged and paid upon the policies, it shall be lawful for the said Commissioners to enter into an agreement with that person or body for the

A.D. 1889.

delivery to them of quarterly accounts of all sums received in respect of premiums on policies of insurance against accident, and the agreement shall be in such form and contain such terms and conditions as the said Commissioners may think proper :

5

(c.) After an agreement has been entered into between the said Commissioners and any person or body under the foregoing provision and during the period for which the agreement is in force, no policy of insurance against accident issued by that person or body shall be chargeable with any stamp duty, *but in lieu of and by way of composition for such stamp duty there shall be charged on the aggregate amount of all sums received in respect of premiums on policies of insurance against accident a duty at the rate of five pounds per centum, which duty shall be a stamp duty and shall be* 15 *under the care and management of the said Commissioners, who by themselves and their officers shall have the same powers and authorities for the collection, recovery, and management thereof as are now vested in them for the collection, recovery, and management of any stamp duties, and* 20 *shall have all other powers and authorities requisite for such purposes :*

(d.) The quarterly accounts to be delivered by or on behalf of any person or body to the said Commissioners shall be delivered within twenty days after the *fifth day of April, the fifth day* 25 *of July, the tenth day of October, and the fifth day of January* in every year, and every account shall be a full and true account of all unstamped policies of insurance against accident issued by that person or body during the quarter of a year ending on any of the said days next preceding the delivery 30 thereof, and of all sums of money received for or in respect of such policies so issued during that quarter, and of all sums of money received and not already accounted for in respect of any other unstamped policies of insurance against accident issued at any time before the commencement of that quarter : 35

(e.) The duty imposed by this section shall be paid on the delivery of the account, and unless then paid shall be a debt due to Her Majesty from the person or body by or on whose behalf the account is delivered :

(f.) In the case of wilful neglect to deliver such an account as is 40 hereby required or to pay the duty in conformity with this section, the person or body shall be liable to pay to Her

Majesty a sum equal to *ten pounds* per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues. A.D. 1889.

PART IV.

EXCISE.

5

20. Notwithstanding anything to the contrary in section three of the Customs and Inland Revenue Act, 1885, the allowances payable under that section may, in the case of British compounded spirits of a strength exceeding eleven degrees over proof, and spirits of the nature of spirits of wine, be paid, on the production of a certificate from the proper officer of inland revenue or customs that the same have been deposited in an excise or customs warehouse, to the person in whose name they are warehoused; and any payment heretofore made on the deposit of such spirits shall be deemed to have been legally made in discharge of all claims to any allowance payable in respect thereof.

Payment of allowances on certain spirits under 48 & 49 Vict. c. 51. s. 3.

21. In the case of payment by, or repayment to, any person in respect of duty upon an excise licence no fractional part of a *penny* shall be charged and paid or repaid.

Fractions of a penny not to be charged upon excise licences.

22.—(1.) Where any person carries on the trade of a dealer in or seller of tobacco in the same house or premises in which he also carries on the trade of a retailer of spirits, wine, beer, or sweets, the licence granted to him for the sale of tobacco shall expire on the day on which the licence granted to him for the sale of spirits, wine, beer, or sweets by law expires.

Expiration of tobacco licences taken out by retailers of intoxicating liquors.

(2.) Where by reason of this section a licence for the sale of tobacco expires before the date at which it would otherwise have expired, a proportionate part of the duty shall be allowed.

23. If any person holding an excise licence for the sale of any article contravenes the terms of his licence, or sells otherwise than as he is authorised by the licence, he shall for such offence, if the same is not an offence for which any specific penalty is imposed by any excise Act, forfeit the penalty imposed by law upon a person dealing in or retailing or selling such article without having an excise licence in force authorising him to do so.

Penalty for contravention of terms of excise licence.

[315.]

B

A.D. 1889.

Amend-
ment of
43 & 44 Vict.
c. 24.Prohibition
of the sale of
methylated
spirits on
Sunday.Consolida-
tion of law
relating to
licences for
the manufac-
ture and sale
of methyl-
ated spirits.Meaning of
"sweets or
made wines."Consolidation
of law as to
use of unjust
scales, &c.**24.** The Spirits Act, 1880, is hereby amended as follows :—

(a.) Sub-section two of section thirty-two shall be read as if the word "ten" were substituted therein for the word "eight."

(b.) Sub-section eight of section ninety-five shall be read as if the words "less five degrees" were not inserted therein. 5

25. The sale of methylated spirits between the hours of ten of the clock in the evening of Saturday and eight of the clock on the following Monday morning is hereby prohibited, and any person selling methylated spirits in contravention of this section shall for each offence, in addition to any other fine or penalty to which he 10 may be liable, incur a fine of *one hundred pounds*.**26.—(1.)** There shall continue to be paid for the use of Her Majesty, her heirs and successors, upon the licences herein-after mentioned to be taken out annually in the United Kingdom the following duties of excise : 15

£ s. d.

Upon a licence to be taken out by a maker of methylated spirits (other than a distiller or rectifier of spirits) - - - - 10 10 0

Upon a licence to be taken out by a retailer of methylated spirits - - - - 0 10 0 25

(2.) Every such licence shall be in such form as the Commissioners of Inland Revenue may direct, and shall expire on the *thirtieth day of September* in each year.(3.) Every person who makes or sells methylated spirits with- 25 out being duly licensed or authorised in that behalf shall, in addition to any other penalty or forfeiture, incur a fine of *fifty pounds*.

(4.) A licence to retail methylated spirits shall not be granted to a distiller or rectifier, or to a person licensed to retail beer, spirits, 30 wine, or sweets for consumption upon his premises.

27. In the construction of any enactment relating to the revenue of excise the expression "sweets or made wines" shall mean any liquor which is made from fruit and sugar or from fruit or sugar mixed with any other material, and which has undergone a process 35 of fermentation in the manufacture thereof.**28.—**If any person exercising or carrying on a trade or business under or subject to any law of excise and required to keep scales or weights or measures,—

(a.) in the weighing of his stock or any goods, uses or suffers to 40 be used any false, unjust, or insufficient scales, or weight, or

measure with intent to defraud Her Majesty of any duty of A.D. 1889.
excise; or

- (b.) before or after the weighing of his stock or any goods puts or suffers to be put any other substance thereto, whereby any
5 officer of inland revenue may be hindered or prevented from taking a just and true account;
he shall for every such offence incur a fine of *one hundred pounds*, and the false, unjust, or insufficient scales, and weights, and measures, shall be forfeited.

PART V.

10

MISCELLANEOUS.

- 29.—(1.) If in any case the residue or any part thereof of the estate or effects of a deceased officer, seaman, or marine, having been received by the Admiralty, remains undisposed of or unappropriated for a period of *six years and-a-half* from the date of the receipt by the Admiralty of notice of the death, the Admiralty shall, as soon as may be after the expiration of that period, pay or credit the said residue or part to the Greenwich Hospital capital account. Provided that this section shall not apply to any sums received by
15 the Admiralty before the *first day of April one thousand eight hundred and seventy-three*, and that the application under this section of any residue, or part of a residue, shall not bar any subsequent claim of any person to the same.

Undisposed
of residue
of sailors
effects.

- (2.) This section shall be construed as part of the Navy and
25 Marines (Property of Deceased) Act, 1865.

28 & 29 Vict.
c. 111.

30.—(1.) Any fee leviable in any public office which would, if levied, be payable out of money provided by Parliament shall, if the Treasury so direct, be remitted.

Remission
of fees
payable to
public
department
out of public
money.
42 & 43 Vict.
c. 58.

- (2.) This section shall apply to all fees, per-centages, and other
30 sums to which the Public Offices (Fees) Act, 1879, for the time being applies.

31. All salaries, pensions, compensation allowances, and other allowances which are chargeable on the Consolidated Fund of the United Kingdom and are payable at quarterly periods shall accrue
35 due from day to day, and shall be payable on such quarterly days as may be from time to time determined by the Treasury.

Accruer and
payment of
salaries, &c.
charged on
Consolidated
Fund.

[315.]

C

A.D. 1889.

Explanation
of law as to
annuities
under
Greenwich
Hospital Act,
28 & 29 Vict.
c. 89.

32. Whereas by section nineteen of the Greenwich Hospital Act, 1865, it is enacted that where any commissioner, officer, clerk, or person, while in receipt of an annuity provided in accordance with that Act, is appointed to any office under the Crown or under the Admiralty, then, if the annuity is equal to or greater than the annual emoluments of the office to which he is appointed, the annuity shall be received by him in full discharge of those emoluments, and if the annuity is less than those emoluments, the amount of the annuity shall be received by him in discharge of an equal amount of those emoluments, and doubts have been entertained as to the meaning of this enactment; it is hereby declared that the said annuity shall be received in discharge only of the sum, if any, by which the annuity, together with the annual emoluments of the new office, exceeds the emoluments of the office in respect of which the annuity was granted.

15

Re-transfer
of certain
charges
transferred
under
29 & 30 Vict.
c. 62.

33. Section fifteen of the Crown Lands Act, 1866, shall have effect as if any reference to the payments to the perpetual curate of the Isle of Alderney were omitted from the warrant issued under that section.

Definition of
"Treasury."

34. In this Act "the Treasury" means the Commissioners of Her Majesty's Treasury.

20

Repeal.

35. The Acts specified in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Provided that this repeal shall not affect—

25

(a.) any liability, penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(b.) the exercise of any power or the commencement or continuance of any legal proceeding or remedy in respect of any such liability, penalty, forfeiture, or punishment.

30

Short title.

36. This Act may be cited as the Revenue Act, 1889.

SCHEDULE.

A.D. 1889.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
5 10 Geo. 3. c. 44. -	An Act for more effectually preventing traders in exciseable commodities from using false weights and scales.	The whole Act.
10 26 Geo. 3. c. 77. -	An Act for the amendment of several laws relating to the duties under the management of the Commissioners of Excise.	In part, namely, except section twelve.
28 Geo. 3. c. 37. -	An Act for amending several laws relative to the revenue of excise.	The whole Act.
15 4 & 5 Will. 4. c. 77.	An Act for repealing the duties on starch, stone bottles, sweets or made wines, mead or metheglin, and on scaleboard made from wood.	The whole Act.
18 & 19 Vict. c. 38.	An Act to allow spirit of wine to be used duty free in the arts and manufactures of the United Kingdom.	The whole Act.
20 23 & 24 Vict. c. 113.	An Act to grant duties of Excise on chicory and on licences to dealers in sweets or made wines; also to reduce the Excise duty on hops and the period of credit allowed for payment of the duty on malt and hops respectively; to repeal the exemption from licence duty of persons dealing in foreign wine and spirits in bond; and to amend the laws relating to the Excise.	In part, namely, section twenty-one, from "sweets" or made wines" to "wines."
25 24 & 25 Vict. c. 91.	An Act to amend the laws relating to the Inland Revenue.	In part, namely, sections one, two, and five.
30 26 & 27 Vict. c. 33.	An Act for granting to Her Majesty certain duties of Inland Revenue and to amend the laws relating to the Inland Revenue.	In part, namely, section twenty-five.
35 27 & 28 Vict. c. 56.	An Act for granting to Her Majesty certain stamp duties and to amend the laws relating to the Inland Revenue.	In part, namely, sections twelve and thirteen.
40 30 & 31 Vict. c. 90.	An Act to alter certain duties and to amend the laws relating to the Inland Revenue.	In part, namely, section eighteen.

Revenue.

A

B I L L

To amend the Law relating to the Customs and Inland Revenue, and for other purposes connected with the Public Revenue and Expenditure.

*(Prepared and brought in by
Mr. Jackson and
Mr. Chancellor of the Exchequer.)*

*Ordered, by The House of Commons, to be Printed,
8 July 1889.*

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[Bill 315.]

Rights of Way (Scotland) Bill.

MEMORANDUM.

Owing to many causes, "rights of way" in Scotland are being lost to the public, and as the law at present stands (which is judicial and not statutory) the public, or rather private individuals taking up the cause of the public, have to incur all the costs and risks of litigation in the Court of Session and the House of Lords to recover a road which is being obstructed. In recent years the onus thus thrown upon the public has been made greater, because formerly right of way cases, as turning mainly upon evidence, were almost invariably tried before a jury, whose decision is usually final and not subject to appeal, while of late the practice of the Court of Session has been to refuse a jury trial.

The object of this Bill is to place rights of way in Scotland under the protection of the sheriff and a public officer.

The public officer, according to the Bill, means the Procurator-Fiscal, a county or local officer peculiar to the administration of Scotland. He is a member of the legal profession, and though he has to deal mainly with criminal matters, yet he exercises duties akin to those proposed under this Bill, such as the prosecution of offences under the Roads and Bridges Acts, Education Acts, &c. His jurisdiction extends over the same district as that of the sheriff.

The procedure proposed under the Bill for the protection of rights of way is as follows :—

On receiving a petition by at least three householders residing within his jurisdiction, the sheriff shall direct the public officer to inquire into and report to him in writing as to the statements in the petition, whereupon the sheriff, if he considers the statements unfounded, may decline to empower the public officer to intervene, and may award expenses against the petitioners.

But if the sheriff be satisfied that there exists a *prima facie* case for the intervention of the public officer, he shall empower him to intervene as pursuer in the cause, and the case shall be tried in the sheriff court of the district before the sheriff and a common or a special jury, and the verdict of the jury shall, on the facts of the case, be final.

[Bill 75.]

a

The Bill also provides for the public officer receiving the notices of railway companies or the promoters of any undertaking whose action involves interference with the use of any right of way, and for taking proceedings thereon which the sheriff and he may deem expedient for the protection of the interests of the public.

The expenses incurred by the public officer in the execution of the Act are to be determined by the sheriff, and to be defrayed out of assessments levied in the county under the Roads and Bridges (Scotland) Act, 1878.

A
B I L L

TO

Amend the Law relating to Rights of Way in Scotland.

A.D. 1889.

WHEREAS in many parts of Scotland rights of way are being lost to the use of the public, and in order to preserve them it is expedient that the duty of protecting them should be devolved upon a public officer :

5 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Rights of Way (Scotland) Act, Short title.
10 1889.

2. The words "public officer" shall mean the Procurator-Fiscal of the sheriff court of the district. The word "sheriff" shall include the sheriff-substitute. The words "right of way" shall mean the right which the public has to the use of a road, drove-road,
15 bridle-path, or footpath, as defined by the law of Scotland.

Definitions.

3. Every public officer shall, under direction of the sheriff, who is hereby invested with all jurisdiction necessary to give effect to this Act, be bound, within his district, to protect the rights of way in which the public has acquired or may acquire a prescriptive right
20 of use, and it shall be his duty, in terms of the provisions after-mentioned of this Act, to see that these rights of way are properly preserved, free from obstruction or encroachment, to the use of the public in all time coming.

Duty of protection to be devolved upon the sheriff and a public officer.

4. On receiving a petition in the name of at least three house-
25 holders of full age, residing within his jurisdiction, alleging the existence of a right of way, or the obstruction of or encroachment on a right of way, which petition may be in the form of an ordinary petition in the sheriff court, or as nearly as may be, and shall set forth the names and designations of the proprietors through whose
30 lands the right of way passes, or, in the case of the obstruction or

Petition by householders and procedure thereon.

[Bill 75.]

A

A.D. 1889. the encroachment, the names of the party or parties who have caused the same, the sheriff, before pronouncing an order for service, shall direct the public officer to inquire into and report to him in writing as to the facts stated in the petition. After considering the petition and report thereon, the sheriff, should he be satisfied that the statements in the petition are unfounded, or frivolous, or vexatious, may decline to empower the public officer to intervene as the pursuer in the cause, and the sheriff may, if he sees fit, award expenses in favour of the public officer against the petitioners, without prejudice to the petitioners themselves proceeding with the petition, in common form. 10

Trial before
sheriff and a
jury.

5. Should the sheriff be satisfied that there exists a *prima facie* case for the intervention of the public officer, he shall pronounce a deliverance to that effect, empowering the public officer to intervene as the pursuer in the cause, and he shall order service thereof, and of the petition, to be made in common form; and thereafter the action shall proceed before the sheriff, as if it had been originally raised by the public officer, as nearly as may be in conformity with the usual practice observed in the sheriff courts of Scotland: Provided always that if, after the public officer has intervened, as pursuer in the cause, defences be lodged, and the case be ready for proof or trial, the sheriff shall order the evidence to be taken before himself and a jury; and, in summoning a jury and conducting the trial, the sheriff, the jury, and the parties to the suit shall have and may exercise, in so far as applicable to a case of right of way, the whole powers of procedure having reference to a trial by a common jury conferred on the sheriff, the jury, and the parties thereto, by sections thirty-nine to fifty, and also those powers of procedure having reference to a trial by a special jury conferred on the sheriff, the jury, and the parties thereto, by sections fifty-three and fifty-four of the Lands Clauses Consolidation (Scotland) Act, 1845; and the verdict of the jury shall, on the facts of the case, be final, and not subject to appeal or review. 20 25 30

Procedure in
the event of
no defences.

6. In the event of no appearance being made, or of no defences being lodged in the cause, the sheriff may pronounce decree in absence; or he may, if he sees fit, proceed in absence to take such evidence as the public officer is prepared to adduce, with or without the aid of a jury, and thereafter dispose of the cause in accordance with the evidence adduced. 35

Actions of
rights of
way in
future to be

7. On and after the *passing of this Act* every action or proceeding for the vindication of a right of way, or the prevention of the obstruction of or the encroachment on a right of way, shall be raised 40

in the sheriff court of the district within which are situate the lands over which the right of way extends, and by the mode prescribed by this Act, or as nearly as may be in conformity with its terms.

in sheriff court of the district.

8. Where a right of way exists partly in one county and partly in another, or where it passes over lands situated in more than one county, the sheriff and the jury (if a jury be empanelled) of that county where the petition is presented shall have power to try such case and to pronounce a decree or return a verdict; and such sheriff, jury, and public officer shall, for the purposes of this Act, both before, at, and after the trial, have the same powers in regard to such case in the county or counties through which the right of way claimed extends as they may possess in relation to any case occurring within their own district.

Where right of way extends over two or more counties, sheriff of the county in which the petition is presented to have jurisdiction.

9. After the *passing of this Act*, should any railway company, or the "promoters of any undertaking," as defined in the Lands Clauses Consolidation (Scotland) Act, 1845, wish to obtain or exercise parliamentary powers to enable them to close, enter upon, or interfere with the use of any right of way, or to purchase any lands over which the public has a right of way, they shall be bound to give notice of their intention so to do to the public officer under this Act of the district within which the right of way extends, in order that he may, with the consent of the sheriff, take such steps as may be deemed expedient to protect the interest of the public in the right of way.

Railway companies and others interfering with a right of way to serve notices upon public officer.

10. The expenses properly incurred by the public officer in the execution of this Act shall (in so far as the same are not recovered by the public officer from others) be paid by the "county road trustees" of the county within which are situate the lands over which the right of way in question extends, out of the funds to be levied in terms of the Roads and Bridges (Scotland) Act, 1878, and any Act amending the same; and any addition to the said assessments required for this purpose is hereby directed to be levied; and on the account for the expenses incurred by the public officer being presented, the sheriff shall, on being satisfied that the account is correct, give a deliverance to that effect; and if the right of way in question is applicable to lands situate in more than one county he shall in such deliverance apportion the said expenses among such several counties as he shall see to be just, and shall specify the amount thereof to be paid by each of them, and he may grant a decree for all or any portion of such expenses.

Expenses of the public officer to be determined by the sheriff, and to be defrayed out of assessments levied under the Roads and Bridges (Scotland) Act, 1878, and this Act.

**Rights of Way
(Scotland).**

A

B I L L

To amend the Law relating to Rights
of Way in Scotland.

(Prepared and brought in by
*Mr. Buchanan, Mr. Bryce, Mr. Eastmont,
Mr. Arthur Elliot, Mr. Donald Crawford,
Mr. Baird, and Mr. Asquith.*)

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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[Under 1 oz. Price 1d.]

[Bill 75.]

A

B I L L

TO

Provide for vesting in the Commissioners of Public Works in Ireland Royalties, Foreshore Rights, and Water Rights connected with Lands sold under the Purchase of Lands (Ireland) Acts. A.D. 1889

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. In every case in which the Irish Land Commission under the provisions of the Land Law (Ireland) Acts, 1881 and 1887, the Purchase of Land (Ireland) Acts, 1885 and 1888, and any Act amending the same or any of the said Acts, sanctions and makes or have sanctioned and made an advance to a tenant or any other

Conveyances of holdings under the Land Law (Ireland) Acts and the Purchase of Land (Ireland) Acts not to be deemed to vest certain hereditaments and rights.
- 10 person for the purchase of any holding, the conveyance to or the order vesting the holding in the tenant or such other person shall not include or be operative to convey or vest, or be deemed to have conveyed or vested, any of the hereditaments, rights, matters, or things in the next section mentioned, save as therein specified.
- 15 2. Every such conveyance or order shall, without the necessity of mentioning or setting out the matters in this section mentioned, vest and be deemed to have vested in the Board of Works all such foreshores and such soil and beds of tidal and non-tidal rivers and lakes, and such exclusive rights of taking gravel, sand, and seaweed

Royalties, foreshores, &c. of such holdings to vest in Board of Works without being set out in conveyance, and Board of Works may do all necessary things for utilising same.
- 20 thereon, and such other exclusive rights connected therewith, and such waters and exclusive rights of water and of fishing, and such mines, royalties, minerals, coals, and quarries as respectively form portion of or adjoin such holding or are appendant or appurtenant thereto, and as are held by the owner or owners of the estate pur-
- 25 ported to be conveyed or vested in such tenant or other person, or by such tenant or other person (save such rights of water and of

[Bill 160.]

A.D. 1889.

taking gravel, sand, or seaweed, and of quarrying open quarries as may be necessary for the use and proper cultivation of such holding), together with liberty for the Board of Works and their assigns, and the agents, servants, or other persons authorised by them respectively (they making reasonable compensation for any damage done 5 or occasioned thereby), at all times, and with or without horses or other animals and vehicles, or mechanical appliances of every description, to enter, pass, and repass in, through, and upon such holding, and to take, dig, or search for, and do all things necessary for the full use and enjoyment of the said hereditaments, rights, matters, 10 and things aforesaid.

Such royalties, &c. not to be liable for charges or be subject to restrictions imposed by Acts in respect of the holdings.

3. No such hereditaments, rights, matters, or things shall be charged with or liable for the repayment of any such advance as aforesaid, or any charge or annuity in respect thereof, nor shall the same be subject to the powers or restrictions imposed by the 15 said Acts in respect of such holding.

Power to Board of Works to manage royalties, &c., to invest proceeds, and to hold same for purposes in Ireland as Parliament may from time to time direct.

4. The Board of Works shall have full power to alien, let, mortgage, encumber, manage, or otherwise deal with the said hereditaments, rights, matters, and things on such terms and in such manner as they may think right, and they shall hold the same 20 and the proceeds, rents, issues, and profits thereof, after payment of the costs, charges, and expenses of acquiring, aliening, letting, mortgaging, encumbering, managing, or otherwise dealing with the same, for such purposes in Ireland as Parliament may from time to time direct, and, pending any such direction as aforesaid, shall have 25 power to invest such proceeds, rents, issues, and profits after such payment thereof as aforesaid, and the dividends and income of such investments upon such securities as they may from time to time think proper.

Interpretation of terms.

5. In this Act words and expressions shall, unless there is some- 30 thing in the context repugnant thereto, have the same meaning as in the Land Law (Ireland) Acts, 1881 and 1887, and the Land Purchase (Ireland) Acts, 1885 and 1888, the Acts amending the same, and the expression holding shall include residue, part of residue, and parcel, and the words Board of Works shall mean 35 Commissioners of Public Works in Ireland.

Short title.

6. This Act may be cited as the Royalties and Foreshores (Ireland) Act, 1889, and shall be binding upon all persons, including Her Majesty, her heirs and successors.

Application of Act.

7. This Act shall apply to Ireland only.

40

**Royalties and
Foreshore Rights
(Ireland).**

A

B I L L

To provide for vesting in the Commissioners of Public Works in Ireland Royalties, Foreshore Rights, and Water Rights connected with Lands sold under the Purchase of Lands (Ireland) Acts.

*(Prepared and brought in by
Mr. Murphy, Mr. Parnell, Mr. Sullivan,
and Mr. Clancy.)*

*Ordered, by The House of Commons, to be Printed,
15 March 1889.*

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ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.

[Price 1*½*d.]

[Bill 160.]

A

B I L L

INTITULED

An Act to amend an Act to make provision in regard to the A.D. 1889.
Restoration of the Ancient Church of Saint Giles in the
City of Edinburgh. —

WHEREAS in carrying out the restoration of the ancient
church of Saint Giles in the city of Edinburgh an arrange-
ment was made in the month of December 1878 between the
Restoration Committee and Dr. William Chambers on the one
5 part and the Edinburgh Ecclesiastical Commissioners on the
other part; that the said Edinburgh Ecclesiastical Commissioners
should consent, so far as they had power to do so, to the carrying
out of the work of restoration in the area known as the Old church
of the operations shown in the plans and report prepared by
10 Mr. William Hay, architect, on condition of the said Dr. William
Chambers erecting at his own expense the pews or seats in the said
area shown in said plans, and that the said Edinburgh Ecclesiastical
Commissioners should receive the rents of the said pews or seats;
and

15 Whereas the said Dr. William Chambers in implement of the
said agreement at his own expense erected the said pews or seats
in the said area; and the said Edinburgh Ecclesiastical Commis-
sioners have received the rents of the same since that time;
and the said Dr. William Chambers removed all other pews or
20 seats from the said area and carried out the work of restoration as
shown in said plans and report; and

Whereas by the Act of the session of the forty-second and 42 & 43 Vict.
forty-third years of the reign of Her present Majesty, chapter c. cexxi.
two hundred and twenty-one, intituled "An Act to make pro-
25 vision in regard to the restoration of the ancient church of
" Saint Giles in the city of Edinburgh," it is, inter alia, provided
that the new north church (usually called West Saint Giles
[Bill 248.]

A.D. 1889. Church) should, on the conditions and at the time therein specified, be incorporated with and form part of the High Kirk; and

Whereas doubts have arisen as to the true interpretation of the said Act, and it is desirable that these should be removed:

Be it therefore enacted by the Queen's most Excellent Majesty, 5 by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Prohibition
against
erecting
pews in
certain parts
of church.

1. From and after the date of the passing of this Act, neither the Edinburgh Ecclesiastical Commissioners nor the Kirk Session 10 of the said High Kirk, nor any other person shall be entitled to erect in the transept or in the nave of the ancient church of Saint Giles, being the areas formerly occupied partly as the said Old church and partly as the said West Saint Giles Church, and the entrances thereto and to the said High Kirk, any pews or fixed 15 seats, or to erect galleries or make any structural alterations therein, or to draw rents or receive any payment in respect of chairs or seats within these portions of the said ancient church.

Short title.

2. This Act may be cited for all purposes as the Saint Giles Restoration (Scotland) Act Amendment Act, 1889.

20

**Saint Giles Restoration
(Scotland) Act
Amendment. [H.L.]**

A

B I L L

INTITLED

An Act to amend an Act to make provision in regard to the Restoration of the Ancient Church of Saint Giles in the City of Edinburgh.

(Brought from the Lords 27 May 1889.)

*Ordered, by The House of Commons, to be Printed,
27 May 1889.*

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HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 2d.]

[Bill 248.]

Sale of Intoxicating Liquors on Sunday Bill.

MEMORANDUM AS TO THE OBJECT OF THE BILL.

It is proposed by the Bill to prohibit the sale of intoxicating liquors by retail in England during the whole of Sunday, except in the case of lodgers and bonâ fide travellers as defined by the Licensing Acts, 1872-1874.

A

B I L L

TO

Prohibit the sale of Intoxicating Liquors on Sunday.

A.D. 1889.

WHEREAS the provisions in force against the sale of intoxicating liquors during certain hours of the Sunday have been found to be attended with great public benefits, and it is expedient to extend such provisions to the other hours of Sunday :

5 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

10 1. After the *tenth day of October one thousand eight hundred and eighty-nine*, all premises in which intoxicating liquors are sold or exposed for sale by retail shall be closed during the whole of Sunday, subject to the provisions (except as to the hours of closing on that day) of the Licensing Acts, 1872-1874. Closing of premises for sale of intoxicating liquors on Sunday.

15 2. This Act shall not apply to Scotland, Ireland, or the Principality of Wales. Extent of Act.

3. This Act may be cited for all purposes as the Sunday Closing Act, 1889. Short title.

Sale of Intoxicating Liquors on Sunday.

A

B I L L

To prohibit the sale of Intoxicating
Liquors on Sunday.

(Prepared and brought in by
*Mr. James Stevenson, Mr. Charles Wilson,
Mr. Walter James, Mr. Atkinson, Mr. Cozens-
Hardy, and Mr. Octavius V. Morgan.*)

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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HODGKIN, FRIGGS, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 1d.]

[Bill 20.]

Sale of Intoxicating Liquors on Sunday (No. 2) Bill.

MEMORANDUM AS TO OBJECT AND EFFECT OF BILL.

The hours during which public houses are at present open on Sunday are as follows :—

In the metropolitan district—

From one o'clock p.m. to three o'clock p.m.

From six o'clock p.m. to eleven o'clock p.m.

Elsewhere—

From half-past twelve o'clock p.m. to half-past two o'clock p.m.

From six o'clock p.m. to ten o'clock p.m.

It is proposed by this Bill to reduce the evening hours of opening in the metropolitan district, so that houses may remain open—

From seven o'clock p.m. until ten o'clock p.m.

and in places outside the metropolitan district, but within the metropolitan police district or a town or populous place as defined by the Act of 1874, so that houses may remain open—

From seven o'clock until nine o'clock p.m.

In places outside the metropolitan district, but within the metropolitan police district or a town or populous place, it is proposed to prohibit any sale of intoxicating liquor during the hours of opening except the sale of beer, &c. for consumption off the premises.

In the country it is proposed that public houses should not be opened at all on Sunday, but neither in town nor country is it proposed to alter the present law as regards a *bonâ fide* traveller, or as relates to railway refreshment rooms.

A

B I L L

FOR

Closing Public Houses on Sunday, making exception for the sale of beer during certain hours, and for the metropolitan district. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1.—(1.) All premises in which intoxicating liquors are sold or exposed for sale by retail shall be closed during the whole of Sunday, except in case of premises situate in the metropolitan district or in the metropolitan police district, or in a town or populous place, during the following hours in the afternoon ; namely,
- 10 (a.) If the premises are situate in the metropolitan district, from one to three, and from seven to ten ;
- (b.) If the premises are situate beyond the metropolitan district, but in the metropolitan police district, or in a town or populous place, from half-past twelve to half-past two, and from seven
- 15 to nine.
- (2.) If the premises are situate beyond the metropolitan district, but in the metropolitan police district or in a town or populous place, they shall during these hours be closed for all purposes except the sale of beer, ale, porter, cider, or perry for consumption
- 20 off the premises.
- (3.) The Licensing Acts, 1872 to 1874, shall apply in the case of any premises closed under this Act as if they had been closed under, by, or in pursuance of those Acts, and nothing in this Act shall make illegal any sale of intoxicating liquors which is legal during
- 25 the hours during which premises are closed under, by, or in pursuance of those Acts.
- Hours of closing on Sunday.
35 & 36 Vict. c. 94.
37 & 38 Vict. c. 49.

[Bill 93.]

A

2 *Sale of Intoxicating Liquors on Sunday (No. 2).* [52 VICT.]

A.D. 1889.	2. This Act shall commence and come into operation on the
Commence- ment of Act.	<i>first day of January one thousand eight hundred and ninety.</i>
Extent of Act.	3. This Act shall not extend to Scotland or Ireland or Wales.
Short title.	4. This Act may be cited as the Sale of Liquors on Sunday Act, 1889, and terms used in this Act shall have the same construction 5 and meaning as in the Licensing Acts, 1872 and 1874.

Sale of Intoxicating Liquors on Sunday (No. 2).

A

B I L L

For closing Public Houses on Sunday,
making exception for the sale of beer
during certain hours, and for the
metropolitan district.

(*Prepared and brought in by*
Sir Joseph Pease, Sir Charles Palmer,
and Mr. Isaac Wilson.)

Ordered, by The House of Commons, to be Printed,
22 February 1889.

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[Under 1 oz. Price 1d.]

[Bill 93.]

Sanitary Acts (Metropolis) Amendment Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Restriction on appointment of inspectors of nuisances and sanitary inspectors.
 2. Appointment and removal of certain officers subject to approval of County Council of London.
 3. Procedure as to removal of nuisances.
 4. Certain offices to be vacated on conviction for offences.
 5. Notification of infectious diseases.
 6. Premises dangerous to health.
 7. Regulations as to lodging-houses.
 8. Unwholesome condition of water supply.
 9. Water supply not to be cut off because of defective fittings.
 10. Penalty for cutting off water supply.
 11. Commencement of Act.
 12. Extent of Act.
 13. Short title.
-

A
B I L L

TO

Amend and extend the Sanitary Laws in force in the
Metropolis.

A.D. 1889.

WHEREAS it is expedient that the Sanitary Acts in force in the metropolis should be amended, and that sundry other provisions should be made to extend the same :

Be it therefore enacted by the Queen's most Excellent Majesty,
5 by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. A vestry or district board shall not nominate or appoint any person to be an inspector of nuisances or sanitary inspector, or
10 continue in office any person to perform any of the duties assigned or usually executed by such officer, unless such person has received from the Sanitary Institute a certificate to the effect that he is duly qualified and competent to perform the duties usually appertaining to such office.

Restriction on appointment of inspectors of nuisances and sanitary inspectors.

15 Provided that such certificate shall not be necessary in the case of an inspector of nuisances or sanitary inspector who has held such an appointment for a period of *five years* immediately preceding the *passing of this Act*.

2.—(1.) From and after the commencement of this Act the
20 appointment of a medical officer of health or of an inspector of nuisances, or the removal from office of a medical officer of health by any vestry or district board, shall not be operative or binding upon any of the parties concerned unless and until the same shall have been confirmed or approved in writing by the County Council
25 of London.

Appointment and removal of certain officers subject to approval of County Council of London.

(2.) Sections one hundred and thirty-two and one hundred and thirty-three of the Metropolis Local Management Act, 1855, shall
be amended and construed as if this provision were contained
therein.

18 & 19 Vict. c. 120.

[Bill 246.]

A 2

A.D. 1889.

(3.) Provided that nothing herein contained shall be deemed to relieve any vestry or district board from the liability to pay the salaries of any officers appointed under the said Act as amended by this Act.

Procedure as
to removal
of nuisances.

3. When the local authority under the Nuisances Removal Acts 5 has served upon any person a notice requiring him to abate or remove a nuisance, and such person has refused, neglected, or omitted to comply with such notice, it shall be competent for such authority to institute proceedings for the abatement or removal of the nuisance and for the recovery, of the penalties prescribed in 10 the said Acts, without being required to obtain a previous order from two justices in petty sessions.

Certain
offices to be
vacated on
conviction
for offences.

4. A member of a vestry or district board who has been convicted of an offence under any of the statutes which the vestry or board of which he is a member is empowered to administer or 15 enforce shall be *ipso facto* incapable of remaining a member of such vestry or board, and his office shall thereupon become vacant. Any person whose office is thus declared vacant shall be ineligible for election to such board or vestry or any other public office within such district for the space of *five years*. 20

Notification
of infectious
diseases.

5.—(1.) It shall be the duty of every person who is the occupier or rated or liable to be rated in respect of any dwelling-house to serve on the clerk of the local authority of the district a notice in writing of any case of small-pox, scarlet fever, typhus, typhoid fever, diphtheria, or measles which may have occurred in the 25 aforesaid dwelling-house immediately upon his ascertaining the nature of such disease; and if any such person shall make default in serving such notice as aforesaid, he shall be liable to be proceeded against by the officer of such authority, and on summary conviction shall be liable to a fine not exceeding *ten pounds* 30 for each default.

(2.) A notice under this section may be served either by delivering the same or by forwarding it by post in a prepaid letter addressed to the clerk of the local sanitary authority of the district. 35

Premises
dangerous to
health.]

6. When an officer of health, in pursuance of the fifth section of the Artizans and Labourers Dwellings Act, 1868, reports to a vestry or district board that any premises are in a condition or state dangerous to health so as to be unfit for human habitation, the said vestry or district board, as the case may be, shall thereupon 40 issue an order upon the owner of such premises requiring him

either to repair or to demolish the same within a period to be named in such order; and it shall be lawful for such vestry or local board to direct that such premises shall be closed for such time as they may deem fit, or as the premises remain in an uninhabitable and unhealthful state or condition.

A.D. 1889.

7. From and after the commencement of this Act, every vestry and district board shall make and enforce regulations for the following matters, that is to say,—

Regulations as to lodging-houses.

- (a.) For fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family ;
- (b.) For the registration of houses thus let or occupied in lodgings ;
- (c.) For the inspection of such houses, and the keeping the same in a cleanly and wholesome state ;
- (d.) For enforcing therein the provision of privy accommodation and other appliances and means of cleanliness in proportion to the number of lodgings, and the cleansing and ventilation of the common passages and staircases.
- (e.) For the cleansing and limewhiting at stated times of such premises ;
- (f.) For the ventilation of rooms ;
- (g.) For the paving and drainage of premises ;
- (h.) For the separation of the sexes ; and
- (i.) For the taking of precautions in case of any dangerously infectious or contagious disease.

The vestry or district board may provide for the enforcement of the above regulations by penalties not exceeding *forty shillings* for any one offence, with an additional penalty not exceeding *twenty shillings* for every day during which a default in obeying such regulations may continue.

8. Where the medical officer of health reports to a vestry or district board that the connexion of a waste-pipe or overflow-pipe of a sink or cistern with the drain, or the connexion of a cistern supplying drinking water with a water-closet in any dwelling-house, constitutes an unwholesome condition in such dwelling-house, the vestry or district board, as the case may be, shall thereupon make an order requiring the owner of such house to disconnect such water supply, or provide such additional cistern or fittings as in the opinion of the medical officer of health may be necessary to remedy the insanitary condition of the dwelling-house; any person upon whom such order is made neglecting to comply therewith within

Unwholesome condition of water supply.

A.D. 1889.

shall be liable to a penalty not exceeding
for each day during which the default

continues.

Water supply
not to be cut
off because of
defective
fittings.

9.—(1.) Notwithstanding any provisions in any other Act contained, no water company supplying water for profit shall cut off 5 the water supply to any dwelling-house or part of a dwelling-house occupied as a separate tenement on account of the water fittings being out of repair, or being so used or contrived that the water supplied by such company is or is likely to be wasted, misused, unduly consumed, or contaminated; but such company may by 10 notice in writing require the owner of such premises within twenty-four hours after the service of such notice to cause the same to be repaired, so as to prevent any waste of water; and if default be made in complying with the terms of such notice, the water company may repair the said fittings or provide new fittings where 15 necessary.

(2.) Any expenses incurred by the water company in providing such fittings, or in making such repairs, may be recovered with costs from the owner of the said premises by proceedings in a court of summary jurisdiction, or by action in any court having 20 jurisdiction locally in the matter, as if the same were a simple contract debt.

Penalty for
cutting off
water supply.

10. Where the water supply of any dwelling-house has been cut off in contravention of the provisions of this Act by any water company, such company shall be liable to a penalty not exceeding 25 *five pounds* for each day during which the water shall remain cut off, which penalty shall be recoverable summarily from the company by and shall be paid to the occupier of such dwelling-house.

Commence-
ment of Act.

11. This Act shall come into operation on the *first day of 30 January one thousand eight hundred and ninety*, which date is herein referred to as the commencement of this Act.

Extent of
Act.

12. This Act shall extend only to the metropolis as defined in the Metropolis Local Management Act, 1855, as amended by subsequent Acts.

35

Short title.

13. This Act may be cited for all purposes as the Sanitary Acts (*Metropolis*) Amendment Act, 1889.

Sanitary Acts (Metropolis) Amendment.

A

B I L L

To amend and extend the Sanitary Laws
in force in the Metropolis.

(Prepared and brought in by
*Mr. H. L. W. Lawson, Mr. J. Stuart,
and Earl Compton.*)

*Ordered, by The House of Commons, to be Printed,
24 May 1889.*

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[Under 1 oz. Price 1d.]

[Bill 246.]

A
B I L L

FOR

The Sanitary Registration of Buildings.

A.D. 1889.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

- 5 1. This Act may be cited as the Sanitary Registration of Buildings Act, 1889. Short title.
2. This Act shall come into operation from and after the *first day of January, one thousand eight hundred and ninety.* Commencement of Act.
- 10 3. The corporation, local board of health, or other local authority charged with the administration of the Public Health Acts shall become sanitary registration authorities under this Act for their respective areas, towns, or districts; and in every place where there may be no local authority under the Public Health Acts, or where there may be more than one local authority under
- 15 the said Acts, the Local Government Board in England and Wales, and the corresponding authority in other parts of the United Kingdom, shall decide under what authority this Act shall be administered.
- 20 4. Each sanitary registration authority constituted by this Act shall appoint its clerk or some other person as sanitary registrar, who shall, under the direction of the sanitary registration authority, issue notices and certificates as required by this Act, as given in the schedule hereunto annexed, and keep a record of the same in appropriate books to be supplied by the Local Government Board in
- 25 England and Wales, and the corresponding authority in other parts of the United Kingdom, and make such returns to the Local Government Board or corresponding authority from time to time on approved forms as such board or authority may direct.
- 30 5. Previous to the *first day of June, one thousand eight hundred and ninety*, each sanitary registration authority constituted by this Act shall cause notice to be sent to the owner, lessee, sub-lessee, or occupier,
- [Bill 70.] A

Appointment
of sanitary
registrar.

Notices
to owner,
lessee, sub-
lessee, or
occupier.

A.D. 1889. occupier of every building occupied or intended to be occupied, either permanently or temporarily, within the area of its jurisdiction, informing the said owner, lessee, sub-lessee, or occupier, of the provisions of this Act (in the manner set forth in Form A. in the schedule hereunto annexed). 5

Sanitary
certificate to
be deposited.

6. After the *passing of this Act* the owner, lessee, sub-lessee, or occupier of every building used or intended to be used as a school, college, hospital, asylum, workhouse, factory, workshop, hotel or lodging-house, and of every building newly erected after the *first day of January, one thousand eight hundred and ninety-two*, SHALL, 10 and the owner, lessee, sub-lessee, or occupier of every other building MAY, cause to be deposited with the sanitary registration authority (in the manner set forth in Form B. in the schedule hereunto annexed) a sanitary certificate, signed or sealed by a licentiate in sanitary practice, that is to say, a person or Corporation 15 duly licensed in accordance with this Act.

Licentiates
in sanitary
practice.

7. The Local Government Board, or corresponding authority, shall issue licenses in sanitary practice to the following persons and corporations, that is to say :—(1.) Members of the Royal Institute of British Architects, Members of the Institution of Civil Engineers, 20 Members of the Royal Institute of Architects of Ireland, Members of the Association of Municipal and Sanitary Engineers and Surveyors, and Members of the Surveyors' Institution, who are registered in accordance with this Act as qualified in sanitary practice. (2.) Architects and civil engineers who have been in 25 practice five years at the *passing of this Act*, and who shall before the *first day of January, one thousand eight hundred and ninety-one*, prove to the satisfaction of the Local Government Board or corresponding authority that their practice as architects or civil engineers has been a *bonâ fide* one, and has included the designing and carry- 30 ing out of constructive sanitary works. (3.) Sanitary associations incorporated by license of the Board of Trade, provided that their certifying officers be registered as qualified in sanitary practice in accordance with this Act. (4.) Medical practitioners registered as qualified in sanitary science. (5.) Persons who are medical officers 35 of health at the *passing of this Act*. (6.) Persons who at the *passing of this Act* hold appointments as engineers or surveyors under the Public Health Acts, provided they are members of one of the institutions mentioned in sub-section one of this section. (7.) Such other persons as are, in the opinion of at least five 40 examiners appointed by the Local Government Board or corresponding authority, qualified to design and carry out constructive sanitary works.

8. The Local Government Board or corresponding authority shall grant licenses in sanitary practice free of charge to members of the institutions mentioned in sub-section one of section seven of this Act, who are registered in accordance with this Act as qualified
 5 in sanitary practice, also to persons and corporations mentioned in sub-sections three, four, five, and six of section seven of this Act; for each other license granted under this Act the Local Government Board or corresponding authority may charge a fee not exceeding *five guineas*, and the said authorities shall keep a register
 10 of all licenses issued by them under this Act.

A.D. 1889.

Licenses in
sanitary
practice.

9. The governing body of each of the institutions mentioned in sub-section one of section seven of this Act may issue certificates of competency in sanitary practice to the members of the institution (including members or associates of every grade), who, in the
 15 opinion of at least five examiners appointed by the said governing body, are qualified to design and carry out constructive sanitary works, and for each certificate thus issued the said governing body may charge a fee not exceeding *three guineas*, and the said governing body shall deposit with the Local Government Board or corre-
 20 sponding authority for registration a duplicate of each certificate of competency in sanitary practice issued under its authority.

Certificates
of compe-
tency in
sanitary
practice.

10. It shall not be lawful for any person or corporation to sign or seal a sanitary certificate under this Act for any building where the arrangements are not strictly in conformity with the following
 25 requirements, that is to say, (1) each watercloset shall have a flushing service which shall be distinct and separate from every water service other than a watercloset service, and no cistern shall be connected with any pipe which is in direct connexion with a soil drain; (2) each soil pipe shall be ventilated, and the open end
 30 of the ventilating pipe shall be at least two feet above the highest window or other opening on the side of the building where the pipe is situated; (3) the drains shall be ventilated by means of a soil pipe, or by a separate pipe above the highest window on the side of the building where the pipe is situated; (4) waterclosets shall be
 35 trapped, and they shall be the only arrangements inside the building having pipes directly connected with a soil drain; (5) there shall be an air chamber with disconnecting siphon trap, or an air inlet disconnecting siphon trap, which shall be easy of access on the soil drain between the building and the public sewer or cesspool.
 40 Provided further, in addition to the foregoing, every certificate for a building used or to be used as a hospital shall specify the cubic contents of each ward and set forth in detail the provision made for

Sanitary
arrange-
ments to be
certified.

A.D. 1889. — lighting, warming, and ventilating each ward as well as the entire building, and the position of the waterclosets, sinks, and discharge pipes with reference to the wards.

Buildings
not to be
used unless
certified.

11. After the *first day of January, one thousand eight hundred and ninety-one*, it shall not be lawful for any building to be used as a school, college, hospital, asylum, workhouse, factory, workshop, hotel, or lodging-house, either permanently or temporarily, unless and until a sanitary certificate has been deposited with the sanitary registration authority, and a sanitary registration certificate has been issued in accordance with the provisions of this Act; and, further, after the *first day of January, one thousand eight hundred and ninety-two*, it shall be unlawful for any building newly erected after that date to be let or occupied for any purpose unless and until the sanitary arrangements have been certified and registered in accordance with this Act.

15

Penalty for
giving false
certificate.

12. Any person certifying the sanitary condition of any building under this Act shall be deemed to have examined the arrangements certified, and for the issue of a false or fraudulent certificate shall be liable upon conviction before a justice of the peace to a penalty not exceeding *ten pounds*, with or without forfeiture of right to certify as may be determined; and every person wilfully signing or sealing a false or fraudulent certificate under this Act shall be guilty of a misdemeanour, and punishable accordingly.

20

Penalty for
letting or
occupying
an uncerti-
fied building.

13. Any owner, lessee, sub-lessee, or occupier of a building required to be certified under this Act shall be liable, if such building be not certified in accordance with this Act, to a penalty not exceeding *ten pounds* upon conviction before a justice of the peace, and for every day after conviction during which such building shall be let or occupied contrary to the provisions of this Act the owner, lessee, sub-lessee, or occupier shall be liable to a further penalty of *one pound*, and these penalties shall be recoverable by the sanitary registration authority before a justice of the peace.

30

Lapse of
certificates.

14. After a period of five years from the date of any sanitary certificate or sanitary registration certificate under this Act any such certificate shall lapse, and the building to which it refers shall be considered as uncertified, and in case of an alteration of or addition to any certified building which affects the operation of or access to the sanitary arrangements of such building, the said building shall be considered as uncertified; in each case the existing certificates must be endorsed or new certificates must be obtained

35

40

in accordance with this Act in the same manner as if the building had never been certified. A.D. 1889.

15. All books required to be kept by this Act, and forms for carrying out the Act, also forms for making returns to the Local Government Board or corresponding authority, shall be the same in all districts, and shall be supplied direct by the Local Government Board or corresponding authority, except in cases where the said Board or authority shall otherwise direct; the cost of all books and forms supplied by the Local Government Board or corresponding authority under this Act to be paid by the local authority or institution receiving the same. Supply of books and forms.

16. Each sanitary registration authority shall decide within its own area, town, or district what buildings are being used as schools, colleges, hospitals, asylums, workhouses, factories, workshops, hotels, or lodging houses within the meaning of this Act; the decision of the sanitary registration authority shall, however, be subject to an appeal to a justice of the peace by the owner, lessee, sub-lessee, or occupier of any such building, or by any ten rate-payers in the area, town, or district: Provided in this latter case that notice of appeal is given to the sanitary registration authority and a justice of the peace within fourteen days of the date of the decision objected to, and such notice of appeal shall state fully the grounds of objection. The decision of a justice of the peace shall only be subject to an appeal to the Local Government Board or corresponding authority within twenty-one days, and the decision of the said Board or corresponding authority shall be final. Rights of appeal against and by local authority.

17. The provisions of this Act, in so far as they apply to penalties, shall not be enforced against a lessee, sub-lessee, or occupier whose lease or term of occupation shall have less than seven years to run at the *passing of the Act*. Exemptions.

18. Only on the written request of the owner, lessee, sub-lessee, or occupier shall the engineer or surveyor of a local authority undertake to certify the sanitary condition of any building, and for such services the owner, lessee, sub-lessee, or occupier shall pay to the engineer or surveyor a fee to be approved by the local authority. Fees payable to local engineers and surveyors.

19. This Act shall not be construed as in any way interfering with the Public Health Acts or with any powers which the local authorities possess under any other Acts; but, in the absence of conclusive evidence to the contrary, the certificates issued under this Act shall be regarded as proofs of the satisfactory sanitary condition of the buildings to which they refer. Act not to interfere with other Acts.

A.D. 1889.

SCHEDULE OF FORMS.

FORM A.—NOTICE TO OWNER, &c.

Name of Borough or District.

I, the undersigned, hereby give you notice to have the sanitary condition of 5
the building known as and being _____

certified pursuant to the provisions and directions of the Sanitary Registration
of Buildings Act, 1889, and that in default of your doing so you will be liable
to the penalties imposed for neglect of such provisions and directions. 10

If you intend to apply for a certificate through the local authority, I have
to inform you that you must fill up the accompanying form for that purpose
and return it with the fee named within twenty-one days.

You are required to have the certificate sent herewith duly signed or sealed
by a licentiate in sanitary practice,* and to deposit the same with the local 15
authority previous to January 1, 1891, or after that date previous to the
building being let or occupied.

Dated this _____ day of _____ 18 ____.

(Signature) _____
Sanitary Registrar. 20

* List of licentiates in sanitary practice under this Act may be seen at _____

FORM B.—SANITARY CERTIFICATE.

Name of Borough or District.

25

I, the undersigned, a licentiate in sanitary practice, have examined the
sanitary arrangements of the building known as and being _____
_____ in the borough or district of _____

and do hereby certify, that the sanitary condition of the building is satisfactory. Such details of the arrangements as I think it desirable to note will be found on the back hereof.

A.D. 1889.
—

5 Dated this _____ day of _____ 18 ____
 (Signature) _____
 (Address) _____

NOTICE.—This certificate is to be deposited with the local authority at _____
10 before the building can be lawfully occupied.
On receipt of this certificate a registration certificate will be given by the local authority.

FORM C.—REGISTRATION CERTIFICATE.

Name of Borough or District.

15 This is to certify that the building known as and being _____
_____ has been duly certified as being in a satisfactory condition, that it has been so
registered in accordance with the provisions of the Sanitary Registration of
20 Buildings Act, 1889, and may be occupied accordingly.
(Signature)

Sanitary Registrar.



EXTRA FORMS.

All extra forms to be approved by the Local Government Board or
25 corresponding authority.

**Sanitary Registration
of Buildings.**

A

B I L L

For the Sanitary Registration of
Buildings.

(*Prepared and brought in by*
Dr. Farquharson, Dr. Cameron, Sir Henry
Roscoe, and Sir Guyer Hunter.)

Ordered, by The House of Commons, to be Printed,
22 February 1889.

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HODGES, FROGGS, & Co., 104, Grafton Street, Dublin.

[*Under 1 oz. Price 1d.*]

[Bill 70.]

School Board Elections (Scotland) Bill.

MEMORANDUM.

The first object of this Bill is to abolish the cumulative system of voting at the election of school boards in Scotland. According to the existing law each voter is entitled to a number of votes equal to the number of the members to be elected, and he may give all his votes to one candidate or may distribute them among the candidates as he sees fit.

The next object is to assimilate the school board franchise in Scotland to that obtaining in England by removing the four pounds limit without altering any existing machinery. Clause 3 of the Bill is so framed as to make it clear that those enjoying the service franchise are admitted to vote at school board elections.

The third object is to apply to school board elections in Scotland the law regarding corrupt practices to the extent to which it is applied to school board elections in England. Clause 4 of the Bill (excepting the last four lines) is taken from the English Education Act, 1870 (33 & 34 Vict. c. 75. s. 91), as amended by the Act of 1873 (36 & 37 Vict. c. 86. s. 8). In England penalties for corrupt practices at school board elections are proceeded for summarily. See section 92 of the Act of 1870, and section 23 of the Act of 1873. The last four lines of clause 4 follow the precedent of these sections. Clause 5 is based on section 9 of the Act of 1873.

A

B I L L

TO

Amend the Law relating to the Election of School
Boards in Scotland.

A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. From and after the commencement of this Act, so much of section twelve of the Education (Scotland) Act, 1872, as provides that "at every election every voter shall be entitled to a number of
10 " votes equal to the number of the members of the school board to
" be elected, and may give all such votes to one candidate, or may
" distribute them among the candidates, as he sees fit," shall be
read as if the words "and may give all such votes to one candidate,
" or may distribute them among the candidates, as he sees fit,"
were omitted therefrom; and the said section shall be read as if the
following words were inserted in the place of the words so omitted :
15 " but shall not be entitled to give more than one vote to any
" candidate, though he may vote for any number of candidates
" equal to or less than the number of the members to be elected."
2. From and after the commencement of this Act the rule
numbered six in Schedule B. to the Education (Scotland) Act,
20 1872, is hereby repealed, and the said Act shall be read as if in
the place of the rule so repealed the following rule were inserted :
At every election every voter shall be entitled to a number of
votes equal to the number of the members of the school board
to be elected, but shall not be entitled to give more than one
25 vote to any candidate, though he may vote for any number of
candidates equal to or less than the number of the members to
be elected.
3. From and after the commencement of this Act, section twelve, sub-section two of the Education (Scotland) Act, 1872, and the
[Bill 42.]

Repeal of
part of s. 12
of 35 & 36
Vict. c. 62.
and substitu-
tion of new
provision.

Rule 6 in
Sched. B.
repealed, and
new rule
substituted.

Repeal of
41. limit to
franchise.

A

A.D. 1889. rule numbered two in Schedule B. to the said Act shall respectively be read as if the words "of the annual value of not less than four pounds" were omitted therefrom.

Service
franchise.

The word "occupiers" in the said section and in the said rule respectively shall be read to include any occupier entered on 5 the valuation roll in respect of the occupation of a dwelling-house by virtue of any office, service, or employment, and who is not rated in respect of such dwelling-house.

Corrupt
practices.

4. Any person who at the election of any member of a school board or any officer appointed for the purpose of such election is 10 guilty of corrupt practices shall, on conviction, for each offence, be liable to a penalty not exceeding *two pounds*, and be disqualified for the term of *six years* after such election from exercising any franchise at any election under this Act or at any municipal or parliamentary election, and from being a member of a school board, 15 and from holding any municipal office.

The term corrupt practices in this section includes all bribery, treating, and undue influence which under any Act relating to a parliamentary election renders such election void.

Any offence under this section may be prosecuted in a summary 20 manner, and every penalty applied, in the manner provided by the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, and any Act amending the same.

Limit of
time for
questioning
election.

5. The election of any member of a school board shall not be questioned except within six months after the declaration of the 25 election of such member.

Short title.

6. This Act may be cited as the School Boards (Scotland) Election Act, 1889.

Citing Act
with former
Acts.

7. This Act and the Education (Scotland) Act, 1872, the Education (Scotland) Act, 1878, and the Education (Scotland) Act, 30 1883, may be cited together as the Education (Scotland) Acts, 1872 to 1889.

Commence-
ment and
application
of Act.

8. This Act shall come into operation on the *first day of January one thousand eight hundred and ninety*, and shall apply to Scotland only. 35

**School Board Elections
(Scotland).**

A

B I L L .

To amend the Law relating to the
Election of School Boards in Scotland.

(Prepared and brought in by
*Mr. Shiers Will, Mr. McLagan, Mr. Eslemont,
and Mr. Lyell.*)

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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HODGES, FIGGIS, & CO., 104, Grafton Street, Dublin. s

[Under 1 oz. Price 1d.]

[Bill 42.]

A

B I L L

TO

Amend the Law relative to the Qualification of Electors of A.D. 1889.
School Boards in Scotland.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. From and after the commencement of this Act, section twelve sub-section two of the Education (Scotland) Act, 1872, and the rule numbered two in Schedule B. to the said Act shall respectively be read as if after the word "occupier" the words "or inhabitant occupier not rated" were inserted therein, and as if the words
10 "of the annual value of not less than four pounds" were omitted therefrom.
2. This Act may be cited as the School Boards Electors (Scotland) Act, 1889. Explanatory clause.
3. This Act shall come into operation on *the first day of January* Commence-ment of Act.
15 *one thousand eight hundred and ninety.*

**School Boards Electors
(Scotland).**

A

B I L L

To amend the Law relative to the Qualification of Electors of School Boards in Scotland.

(Prepared and brought in by,
*Mr. J. B. Balfour, Mr. Donald Crawford,
Mr. Hozier, and Mr. Angus Sutherland.*)

*Ordered, by The House of Commons, to be Printed,
1 May 1889.*

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[Under 1 oz. Price $\frac{1}{4}$ d.]

[Bill 207.]

A
B I L L

TO

Alter the Divisions of London for the Election of the School Board. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. This Act may be cited as the London School Board Elections Act, 1889. Short title.
- 10 2. This Act shall be construed as one with the Elementary Education Acts, 1870 to 1885, and words and expressions to which meanings are assigned by those Acts, have in this Act (unless the context otherwise requires) the same respective meanings. Construction of Act.
- 15 3. The divisions of the metropolis existing immediately before the *passing of this Act*, for the purpose of the election of members of the School Board for London, are hereby abolished : provided that the existing members for those divisions shall until the next triennial election of members continue to sit for and to represent the same divisions respectively as if this Act had not been passed : provided also that any casual vacancy occurring before the next triennial election among the said existing members, shall be filled up as if this Act had not been passed. Abolition of existing divisions for election of members of London School Board.
- 20 4. For the purpose of the next triennial election of members and of all subsequent elections of members of the School Board for London, every undivided parliamentary borough in the metropolis, and every division of every divided parliamentary borough in the metropolis shall be a division entitled to return one member of the School Board for London, except that the City of London shall be entitled to return two members. Adoption of parliamentary divisions for election of members of London School Board.
- 25 5. Sub-sections (1) and (2) of section thirty-seven, and section thirty-nine and the Fifth Schedule of the Elementary Education Act, [Bill 107.] Repeal of parts of Education

A.D. 1889. 1870, and section two of the School Boards Act, 1885, are hereby repealed; but this repeal shall not affect the representation of the existing divisions of the metropolis until the triennial election of members of the School Board for London held next after the passing of *this Act*.

Acts.

33 & 34 Vict.

c. 70.

48 & 49 Vict.

c. 38.

School Board for London Elections.

A

B I L L

To alter the Divisions of London for the
Election of the School Board.

*(Prepared and brought in by
Mr. Maple, Sir Richard Temple, Sir Algernon
Borthwick, Sir Albert Rolitt, Mr. Lawson,
Mr. Richard Chamberlain, and
Mr. Baumann.)*

*Ordered, by The House of Commons, to be Printed,
25 February 1889.*

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[Under 1 c2. Price 3d.]

[Bill 107.]

A
B I L L

TO

Extend the provisions of the Act twenty-ninth Victoria, chapter thirty-one, to the School Board for London. A.D. 1889.

WHEREAS it is expedient that the school board for London should be enabled to grant superannuation allowances to their officers who become disabled by infirmity or age to discharge the duties of their offices:

5 **Be it therefore enacted** by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the School Board Short title.
10 for London (Pensions) Act, 1889.

2. In this Act the term "officer" shall include the office staff, and all inspectors, superintendents, visitors, schoolkeepers, teachers, and other officials male and female of the school board for London who may be in the permanent employment of the board: the term
15 "the school board" shall mean the school board for London.

Interpretation.

3. As from the *twenty-fifth day of March one thousand eight hundred and eighty-eight*, the school board shall have and be deemed to have had all and every the powers given to vestries, district boards, and other parochial bodies within the metropolis
20 by an Act passed in the session held in the twenty-ninth year of Her present Majesty, chapter thirty-one, intituled "An Act to provide for Superannuation Allowances to Officers of Vestries and other Boards within the area of the Metropolis Local Management Act" (herein-after referred to as "the principal
25 Act") in the same manner in all respects as if the school board were mentioned and included in that Act, and the provisions of that Act shall, except where expressly varied by this Act, extend and apply to the school board and their officers, and to the superannuation allowances and gratuities granted under the powers of
30 this Act.

Provisions of 29 Vict. c. 31 as to superannuation allowances to apply to school board and their officers.

[Bill 54.]

A.D. 1889.

Allowances
only to
officers con-
senting to
deduction
from salary.

4. No superannuation allowance or gratuity shall be paid under the authority of this Act to or for the benefit of any person now or hereafter in the service or employment of the school board unless he shall have agreed to a deduction and a reduction shall have been made from the amount of his salary, wages, or emoluments at the rate of *two* per cent. per annum, calculated upon his current salary, for the purpose of forming a superannuation fund as hereinafter provided, such deductions to commence and to be reckoned from the *twenty-fifth day of March one thousand eight hundred and eighty-eight*, in the case of persons then in the service of the school board, and in the case of persons entering the service of the school board since that date such deductions to commence from the date of their entering such service: Provided that, except in the case of dismissal for misconduct, every person now or hereafter in the service of the school board who shall have agreed to such deduction, and from whose salary, wages, or emoluments such deduction shall have been made, shall, subject to the conditions in the principal Act contained, be entitled to a superannuation allowance of the amount and according to the scale in the said principal Act specified, and the school board shall pay such superannuation allowance accordingly.

Lowering of
the age of
retirement
of female
teachers.

5. It shall be lawful for the school board from time to time to lower the age at which the female teachers in the employment of the school board may become entitled to such allowance on the ground of old age from sixty years to any earlier age, not being less than fifty-five years.

Deduction
from salary,
&c. not to
affect posi-
tion of
parties in the
event of
dismissal.

6. No agreement as to any deduction, and no deduction from any salary, wages, or emoluments made under this Act shall entitle any person to be retained in the service or employment of the school board for any longer period than the period during which he would have been entitled to be retained in such service or employment if no such deduction had been agreed upon or made, or shall entitle any person to any damages for dismissal to which he would not have been entitled if no such deduction had been agreed upon or made, and nothing in this Act contained shall be deemed to authorise the school board to make any agreement with any person whereby the prospect of an allowance or gratuity under this Act is made an obstacle to dismissal or the subject of compensation on dismissal.

Superannua-
tion fund.

7. All deductions from salaries, wages, or emoluments made under such agreements as aforesaid shall be carried to a separate fund, to be entitled "the superannuation fund," and the said fund

and the income derived from the investment thereof [except such part thereof respectively as shall be required for immediate use] shall be invested in such manner and in such securities as the school board shall from time to time by resolution determine, and the
5 superannuation fund and the income thereof shall be the primary fund for the payment of all superannuation allowances or gratuities under this Act, but if the superannuation fund and the income thereof be insufficient for the purpose the school board shall pay the deficiency out of the school fund: Provided that the school fund
10 shall be recouped all such payments but without interest out of the next available moneys which would otherwise be carried to the superannuation fund under this Act.

A.D. 1889.

8. In the case of any teacher from whose salary a deduction shall have been made in accordance with the fourth section of this
15 Act, the Board shall make a second deduction from his salary, at the rate of *two* per cent. per annum, and the amounts deducted shall be carried to a separate fund, to be called the repayment fund, and the said fund, and the income arising from the investment thereof shall be invested in such manner and in such securities
20 as the school board shall from time to time direct, and the said repayment fund and the accumulations thereof shall be applied from time to time in repaying to any teacher from whose salary both deductions shall have been made, and who shall, either by death, resignation, or dismissal, have ceased to be in the service of
25 the board before he has become entitled to a pension, the amounts which shall have been so deducted as aforesaid from his salary or such part thereof as an actuary shall certify that the repayment fund is sufficient to make good after making adequate provision for similar claims for repayment to be made by other teachers.
- 30 9. The cost of keeping the necessary accounts of the superannuation fund and of the repayment fund and of the administration of the same and the costs of obtaining this Act shall be paid out of the school fund.

The formation of a repayment fund.

Expenses of administration of Act to be paid out of school fund.

School Board for London (Pensions).¹

A

B I L L

To extend the provisions of the Act
twenty-ninth Victoria, chapter thirty-
one, to the School Board for London.

*(Prepared and brought in by
Sir Richard Temple, Sir Ughtred Kay-
Stuartworth, Mr. Francis Powell, Mr. Lafone,
and Mr. Combeare.)*

*Ordered, by The House of Commons, to be Printed,
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HODGES, FREGG, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 4d.]

[Bill 54.]

A

B I L L

TO

Make provision for the better regulation of the Sea Fisheries of Scotland, and for the establishment, improvement, and maintenance of mussel scalps or beds on the coasts of Scotland. A.D. 1889.

WHEREAS it is expedient to make provision for the better regulation of the Sea Fisheries of Scotland, and for the establishment, improvement and maintenance of mussel scalps or beds on the coasts of Scotland, and to amend the Fishery Board (Scotland) Act, 1882, in so far as regards the constitution of the Board : 45 & 46 Vict. c. 78.

Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled and by the authority of the same, as follows :

1. This Act may be cited as the Fisheries Regulation (Scotland) Act, 1889, and shall be read along with the Sea Fisheries Acts, in so far as they are not inconsistent herewith. Short title.

2. This Act shall apply only to Scotland, and to the parts of the sea adjoining Scotland, and within the exclusive fishery limits of the British Islands. Application of Act.

3. In this Act "Sea Fisheries Acts" shall mean the Sea Fisheries Act, 1868, the Sea Fisheries Act, 1875, the Sea Fisheries Act, 1883, and the Sea Fisheries (Scotland) Amendment Act, 1885. Definition.
31 & 32 Vict. c. 45.
38 Vict. c. 15/
46 & 47 Vict. c. 22.

4. The Fishery Board for Scotland shall after the *passing of this Act* consist of the Fishery Board as established by the Fishery Board (Scotland) Act, 1882, and of six members to be appointed by the fishery district committees in manner herein-after provided, and the Fishery Board in this Act shall mean the Fishery Board for Scotland as so constituted. 48 & 49 Vict. c. 70.
Constitution of Fishery Board.

5. The Secretary for Scotland shall proceed as soon as may be after the commencement of this Act by order, to apportion and [Bill 330.] Establishment of fishery districts.

A

A.D. 1889. divide the counties of Scotland into six fishery districts, comprising the parts of the sea adjoining Scotland and within the exclusive fishery limits of the British Islands, and in making such apportionment and division he shall have regard as far as practicable to the length of sea-board, to the extent and amount of the fishing population, and to the fishery interests and requirements of the population. 5

The proposed order before being made shall be published in such manner as to make it known to all persons interested, and the Secretary for Scotland shall consider all objections and representations respecting such order, and shall thereafter make the order and cause it to be forthwith published in the "Edinburgh Gazette." 10

The Secretary for Scotland may from time to time by subsequent order vary any order made under this section, and unite one or more districts or parts of districts into a separate district, or dissolve any district that may have been formed. 15

Establishment of fishery district committees.

6. In each fishery district there shall be a fishery district committee who shall be a committee composed of three members of each of the county councils of the counties comprised within the district, and of one member of each of the town councils of such burghs within the district, as have according to the census of one thousand eight hundred and eighty-one a population of not less than seven thousand, with the addition in each case of such number of persons representing the fishing interests of the district as may be directed by the order creating the district, or may afterwards be approved of by the Secretary for Scotland. The fishery members shall hold office for *three years*, and any vacancy which may arise amongst them in the interval shall be filled up by a representative of the fishing interest. 20 25 30

Powers of district committees.

7. The law relating to committees and joint committees of county councils shall apply to the fishery district committees in like manner as if the powers and duties of these committees were powers and duties conferred by the Local Government (Scotland) Act, 1889, upon the council or councils represented on the committee and delegated to the committee by the council or councils which it represents. 35

Duties of district committees.

8. Every fishery district committee shall have the charge and supervision of the sea fishing interests and requirements of the district, and shall collect statistics relating to the sea fisheries within the district, and make an annual report to the Fishery Board, and 40

may adopt all or any of the byelaws made by the Fishery Board in A.D. 1889. terms of this Act.

9. Every fishery district committee shall nominate each year one of their number, who shall be a member of the Fishery Board for that year, and who shall have all the powers and perform all the duties pertaining to such membership.

Representa-
tion of
district
committees
on Fishery
Board.

10. The fishery districts shall be chargeable with the expenses incurred under this Act so far as applicable to each district, and these shall be defrayed by the county councils of the counties represented on the respective fishery district committees.

Expenses
of fishery
districts.

Mussel Fisheries.

11. The Fishery Board shall, within six months after the passing of this Act, and after due notice and advertisement of their intention so to do, draw up a list or schedule of mussel scalps or beds as presently existing within the area defined by this Act, and shall specify therein the situation and limits thereof and the names of the owners or reputed owners respectively.

Fishery
Board to
draw up
a list of
mussel beds.

The list or schedule shall be published and circulated in such manner as the Fishery Board shall think fit, and a copy shall be sent to each of the owners or reputed owners specified therein. The principal list or schedule shall be kept and retained in the office of the Fishery Board, and shall be revised and added to as the Fishery Board shall see fit.

12. Any person having or claiming to have a right or title to mussel fisheries or mussel beds or scalps in the sea adjoining Scotland and within the exclusive fishery limits of the British Islands, shall within a period of two years from the passing of this Act, lodge with the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, a copy of or an extract from any charter, conveyance, lease, deed, or other document which instructs or is founded upon as instructing his right or title to the same along with a chart or charts of the mussel fisheries or mussel scalps or beds so claimed, and all mussel fisheries or beds or scalps which at the expiry of a period of *two years* shall not be so claimed shall be held to vest in and belong to the Crown and shall be treated accordingly.

Title to
mussel beds
to be in-
timated to
Commis-
sioners of
Woods and
Forests.

In the event of the right or title of any person to such mussel fisheries or beds or scalps not being instructed to the satisfaction of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, the person making such claim shall, in the event of his insisting in it, bring an action of declarator of his right in the Court

A.D. 1889. of Session, and if he shall fail to bring such action within a period of twelve months from the date of the intimation of the Commissioners declining to admit the claim, the mussel fisheries or mussel beds or scalps in question shall be held to vest in and belong to the Crown, and shall be treated accordingly. 5

Byelaws for regulation, &c., of mussel beds.

13. Immediately after the *passing of this Act* the Fishery Board shall make byelaws for the establishment or improvement, and for the maintenance and regulation of mussel scalps or beds and for the cultivation of mussels generally for all or any of the following purposes, viz. :— 10

- (a.) For restricting or prohibiting either entirely or subject to such regulations as the Fishery Board may think fit the removal or taking of mussels from the mussel beds or scalps within the area covered by this Act.
- (b.) For prohibiting the sale, removal, or taking of mussels for the purposes of manure from any part of the sea adjoining Scotland and within the exclusive fishery limits of the British Islands. 15
- (c.) For prohibiting the removal or taking of mussels below a certain specified size from any part of the sea adjoining Scotland and within the exclusive fishery limits of the British Islands. 20
- (d.) For letting on lease to the Fishery Board or to the fishery district committees, either for *one year* or for a period of years, any mussel scalp or bed in any part of the sea adjoining Scotland, whether such mussel scalp or bed belong to the Crown or to a private individual, subject to such payment of rent and other stipulations and to such restrictions and exceptions as the Fishery Board shall direct; and for sub-letting by the Fishery Board or the fishery district committee either in whole or in part of any mussel bed or scalp, or right to remove or take mussels, so held in lease by the Fishery Board or by the district committee. 25 30
- (e.) For repealing or amending any byelaw made in pursuance of this Act. 35

(2.) A byelaw made in pursuance of this section may provide for its application either to the whole or any specified part or parts of the district for which it is made, and either during the whole or any specified part or parts of the year.

(3.) The Fishery Board may, by their byelaws, impose as penalties for the breach of any byelaw fines not exceeding for any offence the sum of *twenty pounds*, and in the case of a con- 40

tinuing offence the additional sum of *ten pounds* for every day during which the offence continues, and in any case forfeiture of any fishing instrument used or sea fish taken in contravention of, or found in the possession of a person contravening any byelaw.

- 5 (4.) Such byelaws may be adopted in whole or in part by the district committees as above provided, and shall have effect and be enforced in the several districts only in so far as they may be so adopted, but no district committee shall have power
10 to alter or vary any byelaw made by the Fishery Board or to put in force any byelaw other than those so made.

14. The Fishery Board or the district committee, or their sub-lessees or tenants shall, subject to the rights of the Crown and its grantees, under the provisions of section twelve, sub-section (1) (d)
15 of this Act, have within the limits of each fishery district the exclusive right of depositing, propagating, dredging and taking mussels, and in the exercise of that right may within the limits of the district make and maintain mussel scalps or beds and collect and remove the same from place to place, and deposit the same as
20 and where they think fit, and do all other things which they think proper for obtaining, storing, and disposing of the produce of their fishery, provided always that when the Fishery Board or the district committee or their sub-lessees or tenants hold any mussel-scalp or bed on lease, they shall in no case exceed the powers conferred upon
25 them in their respective leases.

Right to deposit, dredge, or take mussels.

15. The Fishery Board or the district committee, or their sub-lessees or tenants may, subject to the rights of the Crown and its grantees, impose tolls or royalties upon persons dredging and taking mussels within the limits of the fishery district, and shall have
30 power to carry into effect and enforce the restrictions and regulations which they are by this Act entitled to impose. All such restrictions, regulations, tolls, and royalties shall be imposed on and apply to all persons equally, and shall be for the benefit of the fishery only.

Right of Fishery Board, &c., to impose tolls and royalties.

- 35 Any person who dredges or takes mussels in contravention of any such restriction or regulation, or without paying any such toll or royalty, shall be liable on summary conviction to pay a penalty not exceeding *twenty pounds*, and to forfeit all mussels so taken, or a sum equal to the value thereof if they have been sold, which
40 forfeiture may be enforced in the same manner as a penalty.

The Court may direct such forfeiture to be delivered or paid to the Fishery Board, or to the district committee, or to their sub-lessees

A.D. 1869. — or tenants, to be applied by them for the improvement and cultivation of the district.

Protection
of fisheries
district.

16. It shall not be lawful for any person other than the Crown or its grantees, and the Fishery Board or the district committee, or their lessees or sub-lessees, their agents, servants, and workmen, 5 within the limits of the district constituted by the order knowingly to do any of the following things:—

To use any implement of fishing, except a line and hook, or a net adapted solely for catching floating fish, and so used as not to disturb or injure in any manner any mussel bed or mussels 10 or mussel fishery :

To dredge for any ballast or other substance except under a lawful authority for improving the navigation :

To deposit any ballast, rubbish, or other substance :

To place any implement, apparatus, or thing prejudicial, or 15 likely to be prejudicial, to any mussel bed, or mussels, or mussel fishery except for a lawful purpose of navigation or anchorage :

And if any person does any act in contravention of this section he shall be liable on summary conviction to pay a penalty not 20 exceeding *twenty pounds*, and every such person shall also be liable to make full compensation to the Fishery Board, or the district committee, or to the sub-lessees, or tenants respectively, and to the owner respectively, for all damage sustained by them or him by reason of his unlawful act. 25

Application
of Act to
orders under
31 & 32 Vict.
c. 45.

17. All orders made under the Fisheries Act, 1868, before the commencement of this Act, but not confirmed, and all proceedings taken before the commencement of this Act with a view to obtain any such orders shall have effect and be proceeded with as if they had been respectively made and taken under this Act. 30

Mode of
recovering
penalties.

18. All penalties, offences, and proceedings under this Act, or under any order made thereunder, may be prosecuted summarily under the Summary Jurisdiction Acts, and if any person feels aggrieved by any conviction under this Act, or by any determination or adjudication of the Court with respect to any compensation 35 under this Act, he may appeal in the manner provided in these Acts.

Assistance
from Fishery
Board.

19. The Fishery Board shall give every assistance in carrying out the provisions of this Act, and where necessary shall employ their officers to facilitate its execution. 40

20. For the purposes of this Act—

A.D. 1889.

The expression "county council" shall mean a county council established under the Local Government (Scotland) Act, 1889, and the Local Government (Scotland) Supplementary Provisions Act, 1889:

Definitions.

5

The expression "person" includes any body of persons corporate or unincorporate:

10

The expression "fishing interests" includes all persons interested in fisheries, either as owners of fisheries or interests therein, fishermen, fishing boat owners, smack owners, fish curers, fish merchants, or otherwise.

Sea Fisheries (Scotland) Regulation.

A

B I L L

To make provision for the better regulation of the Sea Fisheries of Scotland, and for the establishment, improvement, and maintenance of mussel scalps or beds on the coasts of Scotland.

*(Prepared and brought in by
Mr. Marjoribanks, Mr. Duff, and
Mr. Shiress Will.)*

*Ordered, by The House of Commons, to be Printed,
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HODGES, FROGGS, & Co., 104, Grafton Street, Dublin.

[Price 1*d.*]

[Bill 330.]

A

B I L L

INTITULED

An Act to explain the Secretary for Scotland Act, 1887. A.D. 1889.

WHEREAS doubts have been entertained as to whether the functions of the Secretary of State for the War Department have been transferred to the Secretary for Scotland by virtue of the Secretary for Scotland Act, 1887, and it is expedient to remove 50 & 51 Vict.
c. 52.
5 those doubts :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

10 1. Nothing in the Secretary for Scotland Act, 1887, shall affect Secretary of
State for
War not
affected by
50 & 51 Vict.
c. 52.
or be deemed to have affected any powers, duties, or functions of
any of Her Majesty's Principal Secretaries of State as Secretary of
State for the War Department.

15 2. This Act may be cited as the Secretary for Scotland Act, Short title.
1889, and this Act and the Secretary for Scotland Acts, 1885 and
1887, may be cited collectively as the Secretary for Scotland Acts,
1885 to 1889.

Secretary for Scotland.
[H.L.]

A

B I L L

INTITULED

An Act to explain the Secretary for
Scotland Act, 1887.

(*Brought from the Lords 29 May 1889.*)

*Ordered, by The House of Commons, to be Printed,
29 May 1889.*

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[*Under 1 oz. Price 1d.*]

[Bill 249.]

A

B I L L

TO

Amend the Settled Land Act, 1882.

A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 1. This Act shall be construed as one with the Settled Land Acts, 1882 to 1887, and may be cited together with those Acts as the Settled Land Acts, 1882 to 1889, and separately as the Settled Land Act, 1889. Construction and short title.

10 2. Any building lease, and any agreement for granting building leases, under the Settled Land Act, 1882, may contain an option, to be exercised at any time within an agreed number of years not exceeding *ten*, for the lessee to purchase the land leased at a price fixed at the time of the making of the lease or agreement for the lease, such price to be the best which having regard to the rent reserved can reasonably be obtained, and to be either a fixed sum of money or such a sum of money as shall be equal to a stated number of years purchase of the highest rent reserved by the lease or agreement. Option of purchase in building lease.

15

[Bill 275.]

Settled Land Acts
Amendment.

A

B I L L

To amend the Settled Land Act, 1882.

(Prepared and brought in by
Mr. Round, Mr. Eilon, Sir J. Kenway,
and Mr. Gedge.)

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[Price 1d.]

[Bill 275.]

Shannon Drainage Bill.

MEMORANDUM.

The First Report of the Royal Commission on Public Works in Ireland gives the history of the works undertaken from time to time for the improvement of the navigation of the Shannon and the drainage of the adjoining country.

In 1839 a body called the Shannon Commissioners was constituted by Parliament to carry out navigation and drainage works designed by Mr. Rhodes. They expended a sum of 705,000*l.* during the 10 years commencing with 1840, of which 120,000*l.* was for the purchase money of the interest of the Limerick Navigation Company. The waterway was much improved, and about 13,200 acres of land were wholly relieved, and about 21,500 acres more were partially relieved, from floods.

The Commissioners of Public Works took charge of the river in 1852.

In 1867 a scheme was prepared by Mr. Bateman for the further improvement of the drainage, and in 1874 Parliament passed an Act for carrying out Mr. Bateman's scheme, at an estimated cost of 300,000*l.*, of which half was to be granted by Parliament and the residue charged upon the lands benefited by the works, provided two thirds in value of the proprietors assented. The requisite majority did not assent, and the Act has been since repealed.

In 1880-1882 the Commissioners of Public Works expended a sum of 58,757*l.* in effecting some of the improvements proposed by Mr. Bateman. This amount was provided by Parliament without any local contribution. Good has been done by these works, but they could not result in complete control of the floods.

The total expenditure on the river up to the present time has been 860,000*l.*, of which 573,000*l.* has been a free grant from the public revenue.

The value of the navigation has been diminished by the introduction of railways. In 1886 the number of tons carried was about 40,000, of which 2,100 were carried above Athlone. The tolls were 1,431*l.*, of which only 30*l.* were collected above Athlone.

The present Bill proposes to empower the Commissioners of Public Works to execute works recommended by the Royal

[Bill 259.]

a

Commission for the further prevention of floods and the improvement of the drainage of the land adjoining the river. The works proposed are in part those recommended by Mr. Bateman, but some considerable saving can be effected by modifying the scheme in some particulars.

It is proposed by the Bill to give up the navigation above Athlone; but this abandonment of navigation, which is required in order to save expense in executing the drainage works contemplated by the Bill, need not necessarily be permanent. It is not intended to interfere with the masonry of the locks; and although it is proposed to lower some of the weirs and so reduce the navigable depth of the water, yet the cost of restoring the weirs to their former levels would not be great if it should hereafter be considered desirable that the depth of water should be restored to that which at present exists.

The estimated cost of the works is 263,000*l.*, of which it is estimated that 35,000*l.* can be charged upon the lands specially benefited, in the form of an annual charge of 4*l.* 10*s.* for every 100*l.* advanced by Government, payable for a term of 40 years. This charge for capital expenditure is estimated at 1,575*l.* per annum, and will begin to be payable when the whole of the advances have been made. The maintenance charge upon the specially benefited lands will be about 1,575*l.* per annum, making in all a charge of 3,150*l.*

65,000*l.* is proposed to be charged upon the county cess of the baronies and townlands within the catchment area of the river, payable by a like charge, to be presented by the grand juries at each assizes, commencing from the date of each advance. The share of the maintenance charge to be defrayed by the catchment area will be about 2,675*l.* per annum, which, with the charge for the capital outlay, will cause an addition of a penny in the pound to the grand jury cess in the catchment area. 65,000*l.* will be raised by a mortgage of the eel weirs, tolls, and surplus lands connected with the river, at present owned by the Government. The residue of the cost of the works, not exceeding 98,000*l.*, will be supplied as a free grant from moneys voted by Parliament.

It is not proposed that the works should be undertaken unless with the assent of the persons chargeable under the Bill, namely, the occupiers of lands in the districts specially benefited, who will be charged according to the value of the benefit received, and of the occupiers of lands in the rest of the catchment area, who will be charged by means of an addition to the grand jury cess.

The Bill proposes that the voting power of the benefited area shall be estimated as being equivalent to three times the voting power of the rest of the catchment area ; and that each fraction of the voting power of the benefited area shall in like manner be equivalent to three times the same fraction of the voting power of the rest of the catchment area.

The assents or dissents of the occupiers will be ascertained by the Commissioners of Public Works by means of voting papers distributed and collected in somewhat the same manner as at an election for a poor law guardian.

Shannon Drainage Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short titles.
2. Declaration of catchment area.
3. Works authorised for purposes of Act.
4. Provision of money for works.
5. Securities for repayment of advances.
6. Preliminary scheme.
7. Employment of engineer and other officers.
8. A draft schedule to be published, and a copy deposited with the clerks of the Crown and Peace and unions.
9. Examination into objections.
10. Charge on receipts of navigation.
11. Charge for repayment of advances.
12. Charge on county cess.
13. Charge on holdings.
14. Lands to become chargeable with rentcharge.
15. Payment and recovery of annuity charged on holdings.
16. Priority of rentcharge.
17. Rentcharge upon other lands of the same occupiers.
18. Improvement to be excluded from judicial rent.
19. Incorporation of certain sections of 10 Vict. c. 32. for recovery of rentcharge.
20. Maintenance of works.
21. Recovery of annuity and maintenance expenses from grand jury.
22. Enrolment of award.
23. Interest from date of advance to commencement of annuity.
24. Power to Commissioners to enter upon and purchase land.
25. Regulations as to purchase of land.

[259.]

b

Clause.

26. Incorporation of sections 30 to 44 of 8 & 9 Vict. c. 20.
27. Protection of Grand Canal Company.
28. Variation of works authorised by means of Provisional Order.
Taking of land.
29. Provisional Order may vary scheme.
30. Power to authorise occupiers to construct drains.
31. Removal and rebuilding of bridges.
32. Power to make byelaws.
33. Penalty for obstructing Commissioners.
34. Protection of persons acting under Act.
35. Removal of disqualification of justices.
36. Saving of existing liabilities to repair.
37. Saving for existing drainage districts.
38. Formation of other drainage districts.
39. Conditions upon which the works may be undertaken. Assent
of occupiers.
40. Definitions.

SCHEDULE.

A

B I L L

FOR

The Improvement of the drainage of Lands and for the prevention of Inundations within the catchment area of the River Shannon, and for other purposes relating thereto. A.D. 1889.

WHEREAS the care and conservancy of the River Shannon and tributaries thereof and of the works from time to time executed in pursuance of the Shannon Acts, 1835 to 1874, together with all powers, authorities, privileges, rights, titles, and interests
 5 under those Acts, are vested in the Commissioners of Public Works in Ireland :

And whereas, with the object of relieving lands bordering on the said river which were subject to injurious flooding, and of affording facilities for the relief of other lands subject to be injuriously
 10 flooded on tributaries of the said river, provision was made by the Shannon Act, 1874, for the execution of certain works at an expense not exceeding three hundred thousand pounds, whereof
 one half should be defrayed out of money provided by Parliament as a free grant : 37 & 38 Vict.
c. 60.

15 And whereas a portion only of the works contemplated at the date of the said Act has been executed, and the sums actually expended thereon have been provided by Parliament :

And whereas with the same object, and for the purpose of generally improving the arterial drainage of lands within the catchment
 20 area of the River Shannon (with due regard to the maintenance of the navigation of the said river below the town of Athlone), it is expedient that the corporation of the Commissioners of Public Works in Ireland (in this Act referred to as the Commissioners) should be authorised to execute further works, at a cost not exceeding *two*
 25 *hundred and sixty-three thousand pounds*, and that provision should be made for supplying funds for those works, and for the maintenance thereof and of other works heretofore executed :

[259.]

A

A.D. 1889.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Short titles.
2 & 3 Vict.
c. 61.
9 & 10 Vict.
c. 86.
48 & 49 Vict.
c. 41.

Declaration
of catchment
area.

1. This Act may be cited as the Shannon Act, 1889, and the Shannon Acts, 1839 to 1885, and this Act may be together cited as the Shannon Acts, 1839 to 1889. 5

2. The Lord Lieutenant may by Order in Council declare that such baronies and townlands in the counties of Cavan, Leitrim, Roscommon, Longford, Galway, Westmeath, King's County, Tipperary, and Clare as are in that behalf mentioned in the Order shall be deemed for the purposes of this Act to form the catchment area of the River Shannon, and those baronies and townlands are in this Act referred to as the "contributory area" : Provided always, that no barony or townland in the counties of Roscommon or Galway shall be mentioned in such Order, which shall, by order of the Lord Lieutenant in Council, or otherwise, be included in the catchment area of the River Suck under the provisions of any Act now or hereafter to be passed for the execution or completion of works for the drainage of the River Suck Drainage District. 10 20

Works
authorised
for purposes
of Act.

3. In order to carry into effect the purposes of this Act, the Commissioners under this Act may within the contributory area—

- (a) deepen, widen, straighten, embank, and otherwise improve any watercourse or outfall for water, and remove any milldam, navigation weir, fish weir, eel weir, sluice, or other obstruction to any watercourse or outfall for water, and raise, widen, and otherwise alter any wall, embankment, milldam, navigation weir, fish weir, eel weir, sluice, or any dam or defence against water ; and 25
- (b) make any new watercourse or outfall for water, and erect any new embankment, weir, dam, sluice, or defence against water, and fill up or re-open any disused watercourse ; and 30
- (c) temporarily stop the navigation in any watercourse ; and
- (d) alter, regulate, and control the water level of Lough Derg ; and 35
- (e) lengthen, extend, alter, and adapt any piers, wharves, landing-places, or navigable channels on the banks of the River Shannon or its tributaries, or on Lough Derg, which may be affected by any alteration of the water level ; and
- (f) provide for the abandonment of the navigation on so much of the River Shannon and its tributaries, and the lakes on its 40

course as lies above the town of Athlone, and regulate and vary the depth of water above Athlone ; and A.D. 1889.

- (g) erect any machinery and do any acts and things necessary or proper for effecting the above-mentioned purposes or any of them.

Save as provided by this Act, the Commissioners shall not incur liability to make compensation for anything done by them in exercise of their powers under this section.

4. The cost of the works to be executed for the purposes of this Act shall be defrayed in manner following ; (that is to say,) Provision of money for works.

(1.) *A part of the costs shall be defrayed out of money provided by Parliament as a free grant, to an amount not exceeding in the whole ninety-eight thousand pounds ;*

(2.) The Commissioners may from time to time, with the consent of the Treasury, out of money at their disposal for the purpose of loans, make advances by way of loan for the purposes of this Act to an amount not exceeding in the whole *one hundred and sixty-five thousand pounds* on the securities hereafter in this Act mentioned ;

and every sum from time to time appropriated for the purpose of defraying any part of the cost of the said works shall be so provided and advanced partly by way of grant and partly by way of loan as the Treasury may direct.

5. The repayment with interest of the sums advanced by way of loan by the Commissioners in pursuance of this Act shall be secured in manner following : Securities for repayment of advances.

(a) Such amount as the Commissioners, with the sanction of the Treasury, may prescribe shall be secured upon the receipts of the Shannon navigation ; and

(b) the sum of *thirty-five thousand pounds* shall be secured, in the manner provided in this Act, upon the lands specially benefited ; and

(c) the remainder of the sums advanced shall be secured, in the manner provided in this Act, upon the county cess of the baronies and townlands in the contributory area.

6. The Commissioners shall prepare a scheme, having a draft schedule attached thereto, declaring and apportioning the charges upon lands specially benefited, and upon the contributory area. Preliminary scheme.

In such scheme they shall divide the lands for whose special benefit the proposed works are designed into districts (referred to in this Act as special districts) of such number and extent as they

A.D. 1889. think best (and in so doing they may adopt in whole or in part, as they may think fit, the areas contained in the survey and valuation prepared by the Commissioners in the year one thousand eight hundred and sixty-six, and referred to in the Shannon Act, 1874); and shall charge a gross aggregate amount, calculated as herein- 5 after mentioned, upon each special district.

37 & 38 Vict.
c. 60.

They shall also specify in such draft schedule—

- (a) the lands comprised in the special districts (in this section and elsewhere in this Act the term “land” includes a house); 10
- (b) the persons occupying or reputed to occupy the said lands, and the portion of land occupied by each;
- (c) the annual value of the said lands before the execution of the works, and the estimated increase in such value resulting from the proposed works; 15
- (d) the gross amount to be charged on each occupier’s portion of the said lands, and the gross valuation thereof under the Acts relating to the valuation of rateable property in Ireland; such gross amount shall be the aggregate of the proportion of the said sum of *thirty-five thousand pounds*, and the proportion 20 of such sum for interest thereon from the date of the advance to the date of the award pursuant to this Act, as the Commissioners shall fix; and
- (e) all such other matters and things as the Commissioners think proper. 25

The sum to be charged upon the county cess of baronies and townlands shall be apportioned between them by the Commissioners according to their respective valuations.

As between the counties liable to contribute and the special districts, the apportionment indicated in the scheme shall be final. 30

Employ-
ment of
engineer
and other
officers.

7. The Commissioners may, with the consent of the Treasury, employ an engineer and such officers and clerks as may be necessary to enable them to discharge the duties imposed upon them by this Act.

A draft sche-
dule to be
published,
and a copy
deposited
with the
clerks of the
Crown and
Peace and
unions.

8. When such draft schedule as aforesaid shall have been pre- 35 pared, the Commissioners shall cause a copy thereof to be deposited with the clerk of the Crown and Peace of the county and the clerk of each of the several unions wherein the lands drained and improved, or any part thereof, may be situated; and such clerks of the Crown and Peace and clerks of unions are hereby authorised 40 and required to receive the same; and the Commissioners shall

A.D. 1889.

cause notice of such lodgment to be inserted in one or more of the newspapers usually circulated in the counties or districts in which such several unions are situated, once in each week for three successive weeks, and once in some newspaper circulated in the city of Dublin; and the Commissioners shall also in such notice require all persons being occupiers or proprietors of lands proposed to be charged as being improved, who may desire to object to such schedule, to lodge their objections at such time and place as shall be therein specified, and they shall also in the said notice state that they will proceed to hear and inquire into any objections which may be lodged at such time and place, or times and places, as shall in such notice be named.

9. The Commissioners, or one of them, shall attend at such time and place, or times and places, so appointed, and shall examine into the matter of any objections to the said schedule which shall have been lodged, within the time specified in such notice as aforesaid, and shall hear all proper evidence relative thereto, and may adjourn such attendance from time to time, and shall make such alteration as may to them seem proper, and finally settle the said schedule: Provided always, that the whole amount of the said sum of *thirty-five thousand pounds*, and such sum for interest thereon from the date of the advance to the date of the award pursuant to this Act as the Commissioners shall have fixed as aforesaid, shall, notwithstanding any alteration which on the hearing of any such objections it may be deemed proper to make, be charged on the lands in the special districts.

Examination
into objec-
tions.

10.—(1.) After the completion of the works, or, if the Commissioners, with the consent of the Treasury, think fit, at any time before their completion, the Commissioners may by order declare that the amount prescribed by them with the consent of the Treasury shall be charged upon the receipts of the Shannon navigation, subject, however, to any debts or liabilities affecting them; and that amount shall be repaid as to both principal and interest by an annuity of *four and a half* per cent. thereon, payable for *forty* years, and the Commissioners shall by their order declare the amount of the annuity, and the date at which it is to commence.

Charge on
receipts of
navigation.

(2.) The whole or from time to time any part of the annuity charged under this section may be redeemed by the Commissioners, with the consent of the Treasury, out of any surplus receipts arising from the Shannon navigation.

A.D. 1889.

Charge for
repayment
of advances.

11. When from time to time an advance by way of loan (not being an advance secured upon the receipts of the Shannon navigation) is made by the Commissioners in pursuance of this Act, the repayment thereof shall be a charge upon the county cess of the baronies and townlands liable to contribute to such repayment, and upon the lands situated in the special districts, according to the proportions prescribed by the said schedule to the scheme of the Commissioners in that behalf, which charges respectively shall commence to be paid at the times provided by this Act. 5

Charge on
county cess.

12. From the date of each advance the county cess of the said baronies and townlands shall be charged with the payment to the Commissioners of an annuity of *four and a half* per cent. on the proportion of the advance specified in the scheme to be charged on the county cess of those baronies and townlands respectively; and the annuity shall be payable for *forty years*, and shall be paid by equal half-yearly payments on such days as may be specified in the scheme. 15

The annuity shall be paid by means of an addition to the county cess levied from time to time in the said baronies and townlands.

Charge on
holdings.

13. As soon as conveniently may be after the works have been completed, or before their completion, if the Treasury so direct, the Commissioners shall make an award based upon the said schedule settled by the Commissioners, in which they shall set forth the several parcels or portions of land in the special districts drained and improved, and the original and increased values thereof; and such award shall also specify the due proportion chargeable in respect of each such parcel of land, of the amount by this Act directed to be charged upon the lands in the special districts, and shall also specify any other lands held by the same occupiers, to be also held chargeable, with the amount in each case repayable as in this Act provided, and shall also set forth such other matters and things as to the Commissioners shall seem fit and proper. 20 25 30

Lands to
become
chargeable
with rent-
charge.

14. The several lands mentioned in the said award shall from the date thereof become charged with the payment to Her Majesty of an annual rentcharge of *four pounds ten shillings* for every one hundred pounds charged on the said lands respectively, and so in proportion for every lesser amount, to be payable for the term of *forty years*; such rentcharge to be paid by equal half-yearly payments on the *first day of May* and *first day of November* in every year, the first of such payments to be made on the first of such days which shall happen after the date of said award. 35 40

15. Any sum from time to time due on account of the annuity charged upon a portion of land shall be payable by the person or persons occupying the premises at the time the payment is demanded, although such person or persons did not occupy the same at the time such sum became due, provided that no proceedings shall be commenced for the recovery of any sum in arrear against any person not primarily liable to pay the same after the expiration of two years from the date when such sum became due.

A.D. 1889.
Payment and recovery of annuity charged on holdings.

The annuity or any part thereof may at any time be redeemed by the person for the time being liable to pay the same on such terms as may be agreed on by the Commissioners with the consent of the Treasury.

Any annuity payable under this Act shall be paid to the Commissioners, or to such persons and in such manner as the Treasury may from time to time appoint.

Without prejudice to other remedies, the annuity shall be recoverable by the Commissioners in the manner in which rent-charges in lieu of tithes are recoverable in Ireland, subject to this qualification, that the Civil Bill Court of the county in which the land upon which the annuity is charged, or any part of such land is situate, shall have jurisdiction to hear and determine cases where the amount claimed does not exceed *fifty pounds*; and a certificate, purporting to be under the common seal of the Commissioners, shall, until the contrary is proved, be conclusive evidence that the amount of any annuity or arrears of annuity stated therein to be due under this Act from any person named therein is due to the Commissioners from such person.

A portion of land situated within a special district, and chargeable for that reason, shall not, in consequence of its being so chargeable, be exempt from grand jury cess assessed in pursuance of this Act.

16. Every such annuity charged upon lands shall take priority of all charges and incumbrances whatsoever and whensoever made, and of all rent payable out of the said lands, save and except quitrents and rentcharges in lieu of tithes, and also save all charges prior in date (if any) created under the authority or provisions of any Act of Parliament heretofore passed.

Priority of rentcharge.

17. The annuity aforesaid, charged by virtue of this Act upon any lands improved under this Act, shall be held to be chargeable upon such other lands held by the same occupier, as may, by the award of the Commissioners, be made chargeable therewith.

Rentcharge upon other lands of the same occupiers.

18. So long as the annuity aforesaid charged by virtue of this Act upon any land shall remain charged thereon, any increase in the value of such land which shall have resulted from the execution

Improvement to be excluded from judicial rent.

A.D. 1889. of works pursuant to the provisions of this Act shall be excluded
 44 & 45 Vict. in ascertaining the value of such land for the purpose of fixing a
 c. 49. judicial rent therefor under the Land Law (Ireland) Act, 1881,
 and any Act amending the same.

Incorporation of
 certain
 sections of
 10 Vict. c. 32.
 for recovery of rent-
 charge.

19. The thirty-ninth, fortieth, forty-ninth, fiftieth, fifty-second, 5
 and fifty-third sections of the Act of the tenth year of the reign
 of Her present Majesty, chapter thirty-two, intituled an Act to
 facilitate the improvement of landed property in Ireland, as
 amended by any other Act, shall, so far as the same respectively
 are not inconsistent with any of the provisions of this Act, be deemed 10
 to be incorporated in this Act, save that every act in any of said
 sections directed to be done by or to the Paymaster of Civil Service
 shall be done by or to the Commissioners, and shall be as effectual to
 all intents and purposes as any such act would have been if done
 by or to the said Paymaster under the provisions of the said first- 15
 mentioned Act. In the said sections references to an owner of
 lands shall be construed as if they were references to the occupier
 of such lands.

Maintenance
 of works.

20.—(1.) The Commissioners under this Act with a view to
 maintaining and keeping in repair the Shannon navigation and the 20
 works executed under and for the purposes of this Act, and all works
 executed for the like purposes before the *passing of this Act*, may from
 time to time cleanse, repair, enlarge, and otherwise place and maintain
 in a due state of efficiency any watercourse or outfall for water, or
 any wall, embankment, dam, weir, or defence against water, or do any 25
 other act for the purpose of maintaining in a due state of efficiency
 any work required to be so maintained for any of the said purposes.

(2.) Any amount from time to time certified by the Commis-
 sioners to be required to meet the expenses of the maintenance
 and repair of the said navigation and works shall be apportioned 30
 between the lands specially benefited, and the whole of the
 catchment area, in the same proportions as the charges for the
 construction of works were apportioned.

The amount payable by the contributory area shall be charged
 upon the county cess of the several counties in which the 35
 contributory area is situate, and shall be paid by means of an
 addition to the county cess levied from time to time in such part
 of each county as is within the contributory area; and the amount
 so from time to time charged shall be apportioned between the
 several counties in the proportions and manner prescribed in the 40
 award of the Commissioners charging the annuity here-before in
 this Act mentioned.

(3.) The maintenance charge payable out of lands specially
 benefited shall be payable to, and be collected by, the Commis-

sioners in the same manner as the annuity charged upon such lands ; and the Commissioners shall have the same powers of recovering a sum due for maintenance charge, and their certificate in relation thereto shall have the same effect, as if such sum were part of the said annuity. A.D. 1889.

(4.) Sums may be from time to time charged under this section, either prospectively for the payment of future expenses, or retrospectively for the payment of expenses incurred at any time within *six months* before such sums respectively are certified by the Commissioners to be required.

(5.) In addition to the power concerning the maintenance of works conferred by this section upon the Commissioners, the Commissioners shall have the same powers as under the Drainage Maintenance Act, 1866, and the twelfth and subsequent sections of that Act, relative to advances and charges and other matters, shall apply so far as is consistent with the tenor thereof; and all charges created under the said sections shall be payable by the same persons and in the same proportions as other maintenance charges under this Act. 29 & 30 Vict.
c. 49.

21.—(1.) For the purpose of recovering from the grand jury of any county any sum payable out of the county cess of that county in pursuance of this Act, the Commissioners may from time to time send to the secretary of the grand jury of such county a certificate specifying the amount to be levied in any part of the county in respect of the said sum; and, in case the sum so specified in any such certificate is payable by instalments, the certificate shall also specify the number of instalments and the amount of each instalment payable by any part of such county. Recovery of
annuity and
maintenance
expenses
from grand
jury.

(2.) Any such certificate, purporting to be under the common seal of the Commissioners, shall, until the contrary is proved, be conclusive evidence of all matters necessary to authorise the making of it.

(3.) Upon any such certificate being sent to the secretary of the grand jury, the grand jury at the next and every succeeding assizes until the sum therein specified as aforesaid has been fully paid, shall without any previous proceeding at any presentment sessions present any amount for the time being due or falling due before the then next assizes on account of the said sum as specified in the said certificate; and if the grand jury make default in presenting such amount as aforesaid the judge of assize shall order the amount to be raised, and the order shall have the force of a presentment, and the amount shall be apportioned and

A.D. 1889. raised and levied accordingly, as if the same had been inserted in a presentment duly made at such assizes.

(4.) The secretary of the grand jury shall, within one month after the date of any such presentment or order as aforesaid, send notice thereof to the Commissioners.

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Enrolment
of award.

22. Every scheme, schedule, and final award imposing a charge under this Act, with proper schedules, map, or plan describing the lands to which such final award relates, shall be enrolled in the Consolidated Record and Writ office of the High Court, and when so enrolled shall be binding and conclusive on all parties, and a copy thereof certified by the proper officer of the said office shall be evidence that it was duly made, and that all the requisitions of the law in relation thereto were complied with; and the Commissioners shall within one month after a scheme or award is settled, cause the same to be printed and kept for public sale at a price not exceeding *two shillings and sixpence* for each copy.

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Interest
from date of
advance to
commence-
ment of
annuity.

23. The amount charged on any security in pursuance of this Act shall include interest on the sum actually advanced, at the rate of *three and a quarter* per cent. per annum from the actual date of the advance to the date of the commencement of the annuity payable in respect of that amount, and the annuity shall be of such amount as may be necessary for that purpose.

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Power to
Commis-
sioners to
enter upon
and purchase
land.

24. The Commissioners may, for the purposes of this Act, purchase and acquire any lands within the contributory area, and may by themselves and their contractors, surveyors, agents, or workmen, enter upon any land and proceed with any works upon such land which they are authorised to execute, and do all things upon and affecting any land which are necessary or proper for the execution of those works, and for the accommodation of lands adjoining those works, making compensation to all persons for any damage occasioned to them by the exercise of such powers.

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Regulations
as to pur-
chase of
land.

25. The Lands Clauses Acts shall be incorporated with this Act so far as the same may be applicable to and are not inconsistent with or modified by the provisions of this Act; and in construing the said Lands Clauses Acts for the purposes of this Act the Commissioners shall be substituted for the company or promoters of the undertaking, and this Act and any Provisional Order made under it shall be the special Act.

If no agreement is come to as to the amount of any purchase money or compensation to be paid by the said Commissioners to any person, the amount thereof shall, save as herein-after mentioned, be settled by arbitration in manner provided in sections

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twenty-five to thirty-seven, both included, of the Lands Clauses Consolidation Act, 1845, and not otherwise : Provided, however, that where the amount of any purchase money or compensation claimed in respect of any land required by the Commissioners, or in respect of any damage occasioned by the exercise of any powers for the execution of the works authorised by this Act to be executed by the Commissioners, does not exceed *fifty pounds*, proceedings may be taken in a summary manner, either by the Commissioners or by any person claiming such purchase money or compensation, for ascertaining the amount thereof to be paid by the Commissioners, and the court before whom such proceedings are taken shall make such order as they may deem just for the payment of such amount by the Commissioners to the person entitled thereto.

A.D. 1889.
8 & 9 Vict.
c. 18.

26. For the purpose of any works authorised by this Act, the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof, shall be incorporated with this Act so far as such provisions may be applicable, and are not inconsistent with any of the provisions of this Act. In the construction of this Act and the said incorporated provisions, and the incorporated provisions of the Lands Clauses Acts, this Act shall be deemed to be the special Act, and the said works shall be deemed to be the railway, and the Commissioners shall be deemed to be the company :

Incorporation of sections 30 to 44 of 8 & 9 Vict. c. 20.

Provided that the amount of any purchase money or compensation payable by the Commissioners in pursuance of any of the said provisions shall be ascertained in manner provided in this Act in the case of purchase money or compensation payable by the Commissioners in respect of any lands required by them for or injuriously affected by any works authorised by this Act.

27. If by reason of or during the execution of any works authorised by this Act the traffic upon the canal of the Grand Canal Company shall be interrupted at any place, or the said company shall be deprived of the depth of water at any of their landing-places which now exists without as convenient facilities of access to such landing-place as now exist being provided by the Commissioners, then and in every such case the said company shall be entitled to compensation for any loss thereby occasioned, provided that the amount of such compensation shall be ascertained in the manner in this Act provided in the case of compensation to be paid for any damage occasioned by the execution of any works authorised by this Act.

Protection of Grand Canal Company.

A.D. 1889.

Variation of
works autho-
rised by
means of
Provisional
Order.
Taking of
land.

28. If the Commissioners find it necessary to add to or vary the proposed works, or to take lands otherwise than by agreement, they may by petition make application to the Lord Lieutenant in Council for an Order in Council authorising them to do any of the things aforesaid. 5

With respect to Orders in Council authorised to be made by the Lord Lieutenant under this Act, the following provisions shall apply :

- (1.) The Lord Lieutenant shall not make any Order in Council under this Act unless public notice of the purport of the proposed Order has been previously given by advertisement in two successive weeks in some newspaper or newspapers circulating in the district or districts to which such Order relates, and once in some newspaper circulating in the city of Dublin. 10
- (2.) Before making any such Order in Council, the Lord Lieutenant and Privy Council shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections. 15 20
- (3.) When an Order in Council authorising the Commissioners to take any land otherwise than by agreement is made, it shall be published in the district to which it relates in such manner as the Lord Lieutenant and Privy Council may direct; and if any owner or occupier of land authorised to be taken otherwise than by agreement presents a petition to the Lord Lieutenant in Council within a period to be prescribed by general rules against such Order, the Lord Lieutenant may submit such Order to Parliament for confirmation; and any such Order against which such petition as aforesaid is presented shall be of no force whatever unless and until it is confirmed by Parliament. Such Order, if no such petition is presented within the prescribed time, and any Order in Council under this section not authorising land to be taken otherwise than by agreement, shall become absolute, and shall be of the same effect as if it had been confirmed by Parliament. 25 30 35
- (4.) Any Act confirming any provisional order made in pursuance of this Act, and any Order in Council not requiring confirmation by Parliament made in pursuance of this Act, may be repealed, altered, or amended by a subsequent Order in Council 40

made and confirmed, if it requires confirmation, in accordance with the provisions of this section. A.D. 1889.

(5.) The fourth, sixth, seventh, and eighth subsections of section two hundred and fourteen of the Public Health (Ireland) Act, 1878, concerning the procedure relative to provisional orders shall apply to Orders in Council under this section with the substitution of the Lord Lieutenant in Council for the Local Government Board for Ireland. 41 & 42 Vict.
c. 52.

(6.) The costs of all parties of and incident to an application for an Order in Council shall be in the discretion of the Lord Lieutenant in Council, and an order respecting costs shall be enforceable as if it were an order of the Chancery Division of the High Court.

The Lord Lieutenant in Council may from time to time make such general rules as may seem fit for regulating the procedure as to Orders in Council, and with respect to fees and the taxation and payment of costs and any other matter for the purposes of this section.

29. If an Order in Council authorises any addition to, change in, or abandonment of any of the works proposed in the plans originally adopted by the Commissioners, the Order may make such amendments in the scheme relating to the cost of such works as may be deemed right. Provisional
Order may
vary scheme.

30. The Commissioners may from time to time by order empower the occupier of any land within the catchment area to construct, or to clean or improve, any drain in, through, across, or under any land whatsoever for the purpose of connecting or keeping connected the field drainage of the land of such occupier with any watercourse under the control of the Commissioners. Such order shall be a sufficient authority to any person named therein, his agents and workmen, at all reasonable times to enter upon any land, and to do any works specified in the order, and to do all things necessary for that purpose, making reasonable compensation for any damage done by him or them, and also for the privilege aforesaid: and if any difference arises as to the amount to be paid for compensation, it shall be settled by the Commissioners, and their award shall be final. Power to
authorise
occupiers to
construct
drains.

31.—(1.) The Commissioners may, with the previous consent of the Lord Lieutenant, take down and remove or alter any bridge for the discharge of water under any public road, the alteration or removal of which is necessary or desirable for carrying into effect the purposes of this Act, and the Commissioners shall (if and when in the opinion of the Lord Lieutenant it is necessary) construct a temporary bridge in place thereof, and support and Removal and
rebuilding
of bridges.

A.D. 1889 — maintain the same until the completion of the works necessary for the restoration to public use of the said bridge.

(2.) Where an existing bridge is taken down and removed, the Commissioners shall (if and when in the opinion of the Lord Lieutenant it is necessary) construct a new bridge, with the 5 necessary roads of approach thereto, according to such plan, specification, and estimate as may be approved by the Lord Lieutenant.

(3.) If the removal or alteration of any such bridge was in the opinion of the Lord Lieutenant rendered necessary by reason of its having been originally improperly constructed, or subsequently 10 altered, so as to be an impediment to the natural discharge of the water, having reference to the state of the river or stream at the time of its original construction or subsequent alteration, as the case may be, or if it was in the opinion of the Lord Lieutenant in a ruinous or insecure condition, the expense of the alteration or 15 removal and rebuilding thereof in pursuance of this section shall be charged on the county cess of the county in which the bridge is situate, and shall be paid and payable out of such county cess to the Commissioners, and the certificate of the Commissioners purporting to be under their common seal shall be conclusive 20 evidence of the amount of that expense:

Provided that where any bridge so rebuilt or altered is over any watercourse forming a boundary between two counties, the expense, if chargeable to county cess, shall be payable thereout by the said counties in equal moieties.

Power to
make bye-
laws.

32.—(1.) The Commissioners may from time to time make, alter, and repeal byelaws—

- (a) for prohibiting persons from throwing, or causing or suffering to fall or pass into any watercourse in respect of which any works have been commenced or executed, or are maintained 30 by the Commissioners, any weeds, stones, soil, or other solid matter calculated to cause an obstruction therein, or placing or permitting to remain any milldam, navigation weir, fish weir, eel weir, or other obstruction in any such watercourse without the consent of the Commissioners; and 35
- (b) for prohibiting persons from injuring or permitting to be injured any embankment or other work which has been commenced or executed or is maintained by the Commissioners; and
- (c) for requiring marks to be affixed on sluices or other works, 40 and for prohibiting persons from defacing, removing, or injuring marks placed by authority of the Commissioners on any sluice or other work, and from defacing, removing, or injuring any notice of the Commissioners; and

A.D. 1889.

(d) for regulating in conformity with marks affixed as aforesaid the opening and closing of flood gates, hatches, and sluices within the contributory area in time of flood or apprehended flood.

- 5 (e) for prohibiting persons from injuring or removing any pegs, poles, or other marks placed by authority of the Commissioners for the measurement of any works authorised by this Act, or for any other purpose connected with such works.

(2.) The Commissioners may, by any byelaws made by them
10 under this section, impose on offenders against the same such reasonable fines as they think fit, not exceeding the sum of *five pounds* for each offence, and in the case of a continuing offence a further fine not exceeding *forty shillings* for each day after written notice of the offence from the Commissioners.

15 (3.) Byelaws made under this section shall come into force on such day as may be appointed by the Commissioners, and shall not less than one month before that day be published in one or more of the local newspapers circulating within the contributory district.

20 (4.) The byelaws for the time being in force shall be printed and hung up at such places as the Commissioners think fit, with a view to making them known, and any person shall be entitled to a copy thereof on application, and on payment of a sum not exceeding *one shilling*.

25 (5.) A copy of any byelaws made under this section, if purporting to be signed by one of the Commissioners or by their secretary, and to be certified by such Commissioners or secretary to be a true copy, shall be conclusive evidence in all legal proceedings, until the contrary is proved, of the due making, and existence of such
30 byelaws.

(6.) Fines imposed by byelaws made under this section may be recovered in a summary manner.

33.—(1.) Any person who wilfully obstructs any person acting under the authority of the Commissioners in the lawful exercise of
35 any powers vested in them for the purposes of this Act, and any person who in any way injures or obstructs, or permits to be injured or obstructed, any work constructed, maintained, or repaired in pursuance of this Act, shall for each offence be liable to a fine not exceeding *ten pounds*, to be recovered in a summary manner.

Penalty for
obstructing
Commis-
sioners.

40 (2.) Where the banks or the embankments of any watercourse made, opened, widened, deepened, embanked, improved, maintained, or repaired in pursuance of this Act are broken down or damaged

A.D. 1889. — by cattle grazing or being upon any lands abutting upon such watercourse, by reason whereof such watercourse is injured or obstructed, the person or persons occupying the lands at the time of such damage shall be deemed to have committed an offence under this section. 5

Protection of persons acting under Act.

34.—(1.) An action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within *twelve months* next after the act or thing is done or omitted, or, in case of a continuance of injury or damage, within *twelve months* next after the ceasing thereof. 10

(2.) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect the costs of any injunction or motion for an injunction in the action. 15 20

Removal of disqualification of justices.

35. A justice shall not be disqualified from acting in any case arising under this Act by reason only of his being, as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to or be benefited by any rate or payment or fund out of which any expenses of carrying this Act into effect are to be defrayed. 25

Saving of existing liabilities to repair.

36. The liability of any person to defray or contribute towards the expense of making, completing, altering, repairing, or maintaining any sewer or drain or any walls or works for protecting any land against the force or encroachments of any river, or doing any other work within the contributory area, shall continue, and the same may be enforced as if this Act had not been passed. 30

Saving for existing drainage districts.

37. Nothing in this Act shall affect the powers or liabilities of any drainage board or trustees having authority, in pursuance of any Act passed before the passing of this Act, in any drainage district situate within the contributory area. 35

Formation of other drainage districts.

38. Nothing in this Act contained shall be deemed, construed, or taken to affect or prejudice the right of any person or persons to constitute a separate drainage district, pursuant to the provisions of 40

the Drainage and Improvement of Land Act (Ireland), 1863, and the Acts amending the same.

A.D. 1889.
26 & 27 Vict.
c. 88.

With reference to any such drainage district, the following enactments shall apply, anything in any of the said Acts notwithstanding:—

- (1.) The owner of any land included or proposed to be included in such drainage district may agree with the person occupying the said land as tenant that such tenant shall, for the purposes of the said Acts, be substituted for the owner.
- 10 (2.) If within the time limited for making objections to the report of the inspector sent by the Commissioners respecting the proposed formation of such drainage district, the owner of any land within the proposed district dissents from or does not assent to the formation of such district, the person occupying
15 such land as tenant may apply to the Commissioners to be substituted for the said owner for the purposes of the said Acts; and if, after the Commissioners have served on the said owner notice of the application, the said owner does not, within a period to be prescribed by such notice assent to the formation
20 of the district, the Commissioners, after hearing any objection made by the said owner and any other person having any estate or interest in the land, and on its appearing to them—
 - (a.) that the proposed works for arterial drainage will effect immediately or prospectively an increase in the annual
25 value of the said land proportionate to the sums likely to be charged thereon in respect of the expenses of the said works and the maintenance and repair thereof; and
 - (b.) that the amount charged on the said land under an award made in pursuance of the said Acts, or a substantial
30 part of that amount, is likely to become payable during the continuance of the tenancy then current in the said land,
and having regard generally to the justice of the case, may, if they think fit, by order direct that such tenant shall for the
35 purposes of the said Acts be substituted for the owner of the said land, but without prejudice to the right of the owner to dissent from the formation of such drainage district.
- (3.) Where in pursuance of this section the tenant of any land is substituted for the owner thereof for the purposes of the said
40 Acts, the tenant for the time being of such land, during the continuance of the tenancy current at the time of such substi-
[259.]

A.D. 1889.

tution, shall in respect of such land be vested with all the rights and be subject to all the liabilities and obligations of an owner for the purposes of the said Acts, and the owner shall during the same period be divested of such rights and exempt from such liabilities and obligations, but on the determination 5 of the said tenancy the owner shall become vested with and subject to all such rights, liabilities, and obligations as aforesaid.

44 & 45 Vict.
c. 49.

(4.) For the purposes of this section the words "tenant" and "tenancy" shall have the same meaning as in the Land Law (Ireland) Act, 1881, and the provisions of that Act respecting 10 the determination of a tenancy shall apply to the case of a tenancy to which the provisions of this section are applicable.

Conditions
upon which
the works
may be un-
dertaken.
Assent of
occupiers.

39. No works shall be commenced under this Act unless the Commissioners obtain the assent of the occupiers of the lands within the special districts (herein referred to as "the special 15 district voters"), and of the rest of the catchment area (herein referred to as the "catchment area voters"), at an election in which the wishes of the special district voters shall carry three times the weight of the wishes of the catchment area voters. The vote at such election shall be taken in the manner and subject to the 20 provisions hereby enacted :

- (1.) The Commissioners shall ascertain the number of the special district voters, and the number of the catchment area voters, and shall then determine the factor (being a whole number) by which the votes of all the special district voters would have 25 to be multiplied in order to make them outnumber the votes of all the catchment area voters in the proportion, as near as may be, of three to one: and when the election has been held the Commissioners shall multiply the vote given by each special district voter, whether it is for the proposed works or 30 against them, by the factor aforesaid; and if after such multiplication there is a majority on the whole vote given by both classes of voters in favour of the proposed works, the Commissioners shall proceed to carry them into execution in accordance with this Act. 35
- (2.) The persons qualified to vote shall be all persons appearing in the grand jury applotment books as liable to pay grand jury cess in respect of the occupation of any rateable hereditament within the limits of the catchment area.
- (3.) The Commissioners shall cause a vote of such persons to be 40 taken by means of voting papers within a reasonable time after the passing of this Act.

Before taking such vote the Commissioners shall publish throughout the catchment area, by means of newspapers circulating in the several districts of the area, and by posting, in such manner as the Commissioners think best calculated to give public information, notices of the general nature of the proposed works, and of the probable rate of charge upon special districts and upon the catchment area generally.

- (4.) Voting papers may be in the form contained in the schedule to this Act, or to the like effect.
- (5.) The Commissioners may make regulations for the distribution and collection of the voting papers, and the verification and counting thereof, and for all other matters appearing to them necessary or proper for taking such vote. Secretaries of grand juries and collectors of grand jury cess shall supply such information to the Commissioners for enabling them to take a vote as they may require. The Royal Irish Constabulary shall give such service and assistance to the Commissioners in the distribution and collection of voting papers as the Inspector General shall order.
- (6.) If any person shall knowingly and fraudulently tender a vote which he is not entitled to give, or shall forge, falsify, or knowingly and fraudulently alter after signature any voting paper, or shall knowingly tender or forward any such voting paper forged, falsified, or altered as aforesaid, or shall without lawful reason suppress, carry off, destroy, or deface any voting paper after it has been issued to a voter, he shall be guilty of an offence, and may be prosecuted in a summary manner, and shall on conviction be liable to a penalty not exceeding *twenty pounds* or to imprisonment with or without hard labour for a term not exceeding *three months*.
- (7.) The decision of the Commissioners as to the right of any person to vote, as to the validity of any voting paper, and as to the result of the voting, shall be final; and a certificate purporting to be under their common seal shall be conclusive evidence of the result of the voting.

The vote shall not be invalid by reason of any error or omission, or thing done, in or about the taking of it, unless the Commissioners think it expedient to quash the vote by reason thereof, and to proceed to a fresh vote.

- 40 **40.** In this Act, unless the context otherwise requires, the following expressions and words shall have the meanings hereby assigned to them :

“The Lord Lieutenant” includes the Lords Justices or any other Chief Governor or Governors of Ireland for the time being :

[259.]

D

Definitions.

- A.D. 1889. — “The Treasury” means the Commissioners of Her Majesty’s Treasury :
- “High Court” means Her Majesty’s High Court of Justice in Ireland :
- “Clerk of the Crown and Peace” includes Clerk of the Peace 5
where the offices of Clerk of the Crown and Clerk of the Peace
have not been united under the provisions of the County
Officers and Courts (Ireland) Act, 1877 :
- 40 & 41 Vict.
c. 56. “Receipts of the Shannon navigation” includes the tolls charged
in respect of the use of the said navigation, and any rents and 10
profits arising from eel weirs, mills, and surplus lands belonging
to the said navigation :
- 8 & 9 Vict.
c. 12.
23 & 24 Vict.
c. 106.
14 & 15 Vict.
c. 70.
23 & 24 Vict.
c. 79.
27 & 28 Vict.
c. 71. “The Lands Clauses Acts” means the Lands Clauses Consolida-
tion Act, 1845, as amended by the Lands Clauses Consolidation
Acts Amendment Act, 1860; the Railways Act (Ireland), 15
1851; the Railways Act (Ireland), 1860; and the Railways
Act (Ireland), 1864 :
- “Lands” has the meaning attached thereto in the Lands Clauses
Acts, and also includes any estate or interest in land, and also
any right of water, right of fishery, right of way, or easement : 20
- “Watercourse” includes any river, stream, drain, sewer, or
passage through which water flows :
- “Bridge” includes culvert and archway :
- “Person” includes a body of persons corporate or not corporate.

SCHEDULE.

A.D. 1889.

FORM OF VOTING PAPER AND ACCOMPANYING EXPLANATION.

[Note.—The correct amounts of the free grant and loans which the Treasury may ultimately sanction shall be filled in when this form is printed for circulation.]

5

Shannon Act, 1889.

Under the above-mentioned Act the Commissioners of Public Works are authorised to make excavations and other works on the Shannon and the rivers flowing into it, for improving the drainage of land.

- 10 The cost will be about 263,000*l.* A share of this, amounting to about 65,000*l.*, will be charged upon the county cess of parts of Cavan, Leitrim, Roscommon, Longford, Galway, Westmeath, King's County, Tipperary, and Clare. The instalment for the repayments of this part of the capital expenditure will amount to about 2,925*l.* per annum, and the maintenance charge
- 15 upon the counties is estimated at about 2,675*l.* per annum. Taken together, these charges will, it is estimated, come to about a penny in the pound on the valuation of the baronies and townlands chargeable.

- A sum of 98,000*l.* will be contributed as a free grant by the Government. A further sum of about 65,000*l.* will be raised by a mortgage of the eel weirs, tolls, and surplus lands connected with the river, which are at present Govern-
- 20 ment property.

- The rest of the first cost of construction, estimated at 35,000*l.*, will be charged upon the occupiers of lands specially benefited. This will impose an annual charge of 1,575*l.* upon the lands specially benefited, which will commence
- 25 to be payable on the completion of the works, or before that time if the Treasury so order. The charge will be apportioned amongst the lands specially benefited, in proportion to the estimate of the benefit they have received.

The share of the maintenance charge payable by the improved lands will be about 1,575*l.* a year.

- 30 The works are not to be undertaken unless with the assent of a majority of the occupiers, as provided by the Act.

In taking the vote, the voting power of the occupiers of the improved lands is taken to be three times the voting power of the occupiers in the rest of the contributory area.

- 35 You are required to fill up this voting paper by writing in the word "for" or "against" in the blank space, and to sign it in the presence of a witness, who must also sign, and you are to keep it till called for.

Form.

Shannon Act, 1889.

- 40 I vote [] the proposed works.

Signature of voter _____ of _____
in the Barony of _____.

Signature of witness _____ of _____

Shannon Drainage.

A

B I L L

For the improvement of the Drainage
of Lands and for the prevention of
Inundations within the catchment area
of the River Shannon, and for other
purposes relating thereto.

*(Prepared and brought in by
Mr. Arthur Balfour, Mr. Solicitor-General for
Ireland, and Mr. Jackson.)*

*Ordered, by The House of Commons, to be Printed,
3 June 1889.*

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[Under 4 oz. Price 3½d.]

[Bill 269.]

A

B · I · L · L

TO

Combine in one Code the Regulations affecting Sheriff Courts in Scotland, and to extend and amend the Law of Civil Process therein. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 PRELIMINARY.

1. This Act may be cited for all purposes as the Sheriff Courts Civil Code (Scotland) Act, 1889. Short title.

2. This Act shall come into operation on the *first day of October one thousand eight hundred and eighty-nine*, which date is herein- Commence-
ment of Act.
10 after referred to as the commencement of this Act. The Act shall be divided into thirteen parts :—

I. Relating to the civil jurisdiction of the sheriff. Division of
Act.

II. Qualifications of sheriffs - principal, sheriffs - substitute, and their remuneration.

15 III. Qualifications and appointment of sheriff-clerks, deposes, auditors, fiscals, deposes; and officers of court.

IV. Judicial arrangements as to sittings, jurisdiction, and other matters.

20 V. Procedure in ordinary court while case depending before sheriff-substitute.

VI. Appeals to the sheriff-principal.

VII. Appeals to the Court of Session.

VIII. Procedure in particular forms of action, summary and special.

25 IX. Expenses and their ascertainment.

X. Extracts of decrees and diligence.

[Bill 154.]

A

2 *Sheriff Courts Consolidation Civil Code (Scotland).* [52 VICT.]

A.D. 1889.

XI. Small-debt jurisdiction and procedure.

XII. Confirmation and executry procedure.

XIII. Miscellaneous matters.

Definitions.

3. Unless there is something in the sense or context repugnant to that construction, the following terms shall have the meanings 5 in this Act herein-after assigned to them :—

“Action” includes every civil proceeding competent in the sheriff court.

“Person” includes company, corporation, and firm.

“Sheriff” includes sheriff-substitute.

10

“Sheriff-clerk” includes sheriff-clerk-depute, and in part of this Act means commissary-clerk in those cases in which such office is not yet abolished.

“Agent” means an enrolled law agent under the Act thirty-six and thirty-seven Victoria, chapter sixty-three, and 15 any Act explaining or amending the same.

“Landlord” includes any person having a right to exact rent, whether as owner, life-renter, heritable creditor in possession, principal tenant, or otherwise.

“Final judgment” shall mean a judgment or interlocutor which, 20 either by itself or taken along with a previous interlocutor or interlocutors, disposes of the whole subject-matter of the cause, or of the competition between the parties in a process of competition, although judgment shall not have been pronounced on all questions of law or fact, and although 25 expenses, if found due, have not been taxed, modified, or decerned for.

Repeal of existing Acts and parts of Acts.

4. The existing Acts and portions or sections of Acts enumerated in Schedule A. annexed hereto are hereby repealed as from and after the commencement of this Act.

30

I.—CIVIL JURISDICTION OF THE SHERIFF.

Actions in sheriff court.

5. All actions shall be competent in the sheriff court which are now competent in the court of session.

Heritable jurisdiction rules.

6. In actions relative to questions of heritable right or title, division, common property, nuisance, servitude, or the like, the 35 same shall be brought in the *forum* where the subjects are situated, and all parties requiring to be called in such actions shall be subject to the jurisdiction of the sheriff *lex rei site*.

Writing challenged in any pending action.

7. If in any action a writing is founded on by either party, all objections thereto may be stated and tried by way of exception; 40 provided always that the sheriff shall ordain the party objecting

to such writing to find such caution as he may deem proper before he shall be allowed to enter upon the challenge of the same. A.D. 1889.

8. In any action having reference to funds or moveable property belonging to or in the possession of a common debtor or holder thereof, it shall be competent to raise the action in the court of the domicile or place of business of either the common debtor or the holder, and the other parties requiring to be called to such action may be competently cited, and shall be amenable to such court, although resident or carrying on business within another sheriffdom, and that without endorsement of the warrant on the petition in said action.

Jurisdiction in multiple-poidings and forthcomings.

9. In the case of defenders or other parties requiring to be called to actions in the sheriff court who may reside or carry on business in the suburbs of Glasgow, but outwith the county of Lanark, it shall be competent to sue such parties in the sheriff court of Lanarkshire at Glasgow—whether ordinary, small-debt, or summary—where either their place of residence or place of business is situated within a radius of four miles, measuring from the sheriff court-house at Glasgow; but it shall be competent to the sheriff at Glasgow, on cause shown, to remit any such action to the court of the county in which defender's residence or place of business is situated.

Special rule of jurisdiction over parties in vicinity of Glasgow.

II.—QUALIFICATIONS OF SHERIFFS-PRINCIPAL AND SHERIFFS-SUBSTITUTE, AND THEIR REMUNERATION.

10. Every person hereafter appointed to the office of sheriff-principal shall be either (1) an advocate of at least ten years' continual practice at the bar, or (2) an acting sheriff-substitute or (3) an agent of not less than ten years' continual practice.

Qualifications of sheriff-principal.

11. The salaries of all sheriffs shall be fixed by the order of the Lord Advocate and one of Her Majesty's Principal Secretaries of State; provided always that no fees in bankruptcy, railway compensation trials, election or other official statutory or ministerial work shall be payable to such sheriffs-principal.

Salaries of sheriffs-principal.

12. In the case of a sheriff-principal being disabled by illness, or necessarily absent from the county for a period of six weeks or upwards, the Lord President of the court of session shall have power, and he is hereby required, to appoint a qualified person to discharge *ad interim* all the duties of the incapacitated or absent sheriff; and on appointment, the proportion of salary to be paid such interim sheriff out of the ordinary salary of the incapacitated

Disablement of sheriff.

A.D. 1889. or absent sheriff shall be fixed by the Lord President, whose certificate shall be a sufficient warrant to Exchequer for the payment to such interim sheriff.

Power of appointment of sheriffs-principal and sheriffs-substitute.

13. The appointments of sheriffs-principal and of sheriffs-substitute shall be vested in Her Majesty and her successors, and shall be exercised on the recommendation of one of Her Majesty's Principal Secretaries of State, and they shall continue to hold office *ad vitam aut culpam*. 5

Qualifications of sheriffs-substitute.

14. Every person hereafter appointed to the office of sheriff-substitute shall be either (1) an advocate of at least ten years' continual practice at the bar, or (2) an enrolled law agent of at least ten years' continual practice. 10

Retiral of sheriffs.

15. Any sheriff-principal or sheriff-substitute shall have an absolute right to retire on his pension after a service of *twenty years*, and that without proof of disability, provided he be sixty-five years of age. In the event of a sheriff-principal having been promoted to that office from a sheriff-substituteship, or of his having served as sheriff-substitute or sheriff-principal in another county, his previous term of service shall be reckoned in calculating the amount of his pension, should he retire from the higher office of sheriff-principal. 15 20

Superannuation.

16. No sheriff-principal or sheriff-substitute shall act as such after he attains the age of *seventy-five years*,

Pensions of sheriffs and sheriffs-substitute.

17. The pensions or retiring allowances payable by the Treasury to a sheriff-principal or sheriff-substitute shall be as follows:— 25
Where the service does not exceed ten years, *one-third* of the salary, reckoned on the average of the salary previously paid to such judge; where the service exceeds ten but not fifteen years, *two-thirds* of such salary or average; and where the service exceeds fifteen but not twenty years, *three-fourths* of such salary or average. And, subject to the provisions of the preceding section, the fact of the old age or permanent infirmity which shall only entitle a sheriff or sheriff-substitute to demand or claim a pension or retiring allowance shall be certified by the Lord President and the Lord Advocate for the time, after satisfactory evidence given them. And in computing the amount of the retiring allowance, the emoluments drawn on the average of the five preceding years shall be held to constitute the salary. 30 35

Removal of sheriffs.

18. A sheriff-principal or sheriff-substitute shall be removeable from office only on the report of the Lord Advocate and one of Her Majesty's Principal Secretaries of State, on cause stated, and such 40

report must bear the recommendation of the Lord President or Lord Justice-Clerk. A.D. 1889.

19. In the case of the death or resignation of a sheriff-principal, the duties and functions of a sheriff-substitute shall in no way be limited or affected; and until a new appointment is made, the senior sheriff-substitute, where there is more than one sheriff-substitute, and in other cases the sheriff-substitute, shall, until such new appointment is made, exercise all the ministerial and official functions of a sheriff-principal, except those of an appellate judge. Death or resignation of sheriff-principal.

20. All sheriffs-substitute shall reside within the jurisdiction of the county or particular district to which they are appointed, and shall not on any account other than sickness be absent therefrom for a period exceeding six weeks at any time. Residence of sheriffs-substitute.

21. The counties or combined counties set forth in Schedule B shall constitute combined sheriffdoms from and after the passing of this Act; and, in respect these combinations are not all immediately practicable, it is declared that, whenever any vacancy in the sheriff-principalship of any of the existing separate counties occurs, the same shall not be filled up, but the different combinations of sheriffdoms set forth in said Schedule B, shall from time to time be effected. Every union of counties into one sheriffdom, under the provisions of this Act, shall be deemed a complete union to all intents and purposes, in so far as regards the jurisdiction, powers, and duties of the sheriff and his substitutes, and the rights and powers of the enrolled law agents practising in such united counties. United sheriffdoms.

22. The sheriffs-principal of Mid-Lothian and Lanarkshire are required to reside permanently in the cities of Edinburgh and Glasgow respectively, or within six miles of the Royal Exchange in each of these cities, and shall not, on any account other than sickness be absent therefrom for a period exceeding six weeks at any time. The said sheriffs-principal are precluded from practising or attending the sittings of the Supreme Court as counsel. Sheriffs of Mid-Lothian and Lanark.

23. In the case of sheriffs-substitute, the times and places of holding their courts, and the districts in which they are required generally to reside, are set forth in Schedule C annexed to this Act; but it shall be understood that their rights and powers as holding commissions as sheriffs-substitute of the entire county, or combined counties or sheriffdom shall not thereby be affected or prejudiced. Sittings of court of sheriffs-substitute.

24. Every salary payable to a sheriff or sheriff-substitute shall be payable by four equal quarterly instalments out of the funds from which sheriffs' salaries are payable; and it shall be lawful for Payment of salaries.

A.D. 1889. Her Majesty, on the joint recommendation of the Lord President of the Court of Session and Her Majesty's Advocate for Scotland, to increase the number of sheriffs-substitute where the same is rendered necessary.

III.—QUALIFICATIONS AND APPOINTMENT OF SHERIFF-CLERKS, 5
THEIR DEPUTES, THE AUDITORS OF COURT, AND OF SHERIFFS-
FISCALS AND THEIR DEPUTES, AND OFFICERS OF COURT.

Appointment
of sheriff-
clerk and
his deutes.

25. The principal sheriff-clerk of each county or combined counties constituting a sheriffdom shall be appointed by the Crown on the recommendation of one of Her Majesty's principal Secretaries of State, and he shall only be removable from office on the report of the Lord Advocate and one of the Secretaries of State, and on cause shown. Such principal sheriff-clerk shall be bound to perform personally the duties of his office, but he shall be entitled to appoint deutes, who shall receive their appointments from the principal sheriff-clerk, and shall be previously approved of by the sheriff-principal; and the duties of such sheriff-clerks-depute shall be discharged under the supervision of the principal sheriff-clerk, who shall be responsible for their acts and omissions. Every one in future appointed to the office of principal-sheriff-clerk shall be an advocate or enrolled law agent of not less than five years' continual practice. 10 15 20

Duties of
sheriff-
clerk and
deutes.

26. The principal sheriff-clerk and his depute shall not, either directly or indirectly, practice before the court of which they are the clerk or depute clerks, and all proceedings in which they may be concerned in violation of this provision shall be *ab initio* null and void. Where the principal sheriff-clerk is personally interested as a party in any suit depending in the court of which he is clerk, the sheriff-substitute shall be required to appoint a special sheriff-clerk *quoad* that process or suit. 25 30

Auditor of
accounts
and his
duties.

27. In each sheriffdom there shall be an auditor, whose appointment shall be during pleasure, and shall be made by the sheriff-principal of the time, but it shall not be necessary on the death or removal of such sheriff-principal to renew the appointment of an acting auditor. The duties of the auditor shall be to tax all accounts of expenses incurred in litigated causes, either as between party and party or as between agent and client, or expenses found due to or by a party to such causes; all accounts incurred to law agents in sequestrations, or bankruptcy or cessio proceedings; and generally to report upon any matters regarding costs, or such accounting questions as may be remitted to him by the sheriffs. 35 40

principal or sheriffs-substitute. The sheriff-clerk, or any of his deposes, shall not be eligible for the office of auditor in the following sheriffs courts, viz.:—At Edinburgh, Glasgow, Dundee, Stirling, Perth, Aberdeen, Inverness, Kilmarnock, Ayr, Paisley, Greenock; 5 and such appointment of auditor combined with the office of sheriff-clerk or depute-sheriff-clerk, shall only be made where the number of local practising agents is so small as to render the combination of offices a necessity.

A.D. 1889.

28. The office of procurator-fiscal in a sheriffdom shall be held 10 by appointment made by the sheriff-principal, with the approval of one of Her Majesty's principal Secretaries of State, and no such fiscal shall be removable from office except by one of Her Majesty's principal Secretaries of State, for inability or misbehaviour, upon a report by the Lord President of the court of session and the Lord 15 Advocate for the time being. Every one in future appointed to the office of procurator-fiscal shall be an advocate or enrolled law agent of not less than five years continual practice.

Procurator-fiscal and his appointment.

29. The procurator-fiscal may appoint, with consent of the Lord Advocate and the sheriff-principal, any one or more deposes, who 20 shall discharge their duties under the supervision of the principal procurator-fiscal, who shall be responsible for their acts and omissions.

Procurator-fiscal's deposes.

30. No procurator-fiscal or depute-procurator-fiscal shall act as such after he attains the age of *seventy-five years*.

Compulsory retiral on account of age.

31. The writs and executions requiring to be executed in a sheriffdom proceeding from the sheriff or his substitutes may, unless otherwise provided, be served and executed by officers of court, who shall be appointed by the sheriff-principal, after due examination and inquiry as to character and qualifications.

Service of writs, and appointment of sheriff's officers.

32. The future applicants for admission to the position of officer of court in any sheriffdom shall find caution by bond with two cautioners, lodged with the sheriff-clerk, for the due and faithful discharge of their duties; and thereafter such officer shall, after taking the oath *de fidei*, receive his written commission from the 30 sheriff-principal. On the death or bankruptcy of a cautioner, the officer of court shall be bound, within two months thereafter, to find caution of new.

Qualifications of sheriffs' officers.

33. The sheriff-clerk of each sheriffdom shall keep a register of the officers of court, in which shall be entered the date of appointment, their names and addresses, with their cautioner's names and addresses, and any change in these particulars shall be duly made 40 from time to time.

Register of officers.

A.D. 1889.
Removal of
officers.

34. On complaint made by any person aggrieved, of any grave fault or neglect in duty on the part of a sheriff-officer, the sheriff, or his substitute, shall, on being satisfied thereof, and after notice to the party complained against, dismiss him from office, which shall infer disqualification from holding any appointment as officer 5 of court in future in any sheriffdom. The sheriff or his substitute may, *ex proprio motu*, in any case coming under his personal notice, exercise the power of dismissal.

IV.—JUDICIAL ARRANGEMENTS AS TO SITTINGS OF THE COURT,
JURISDICTION AND OTHER MATTERS. 10

Sessions of
ordinary
sheriff
court.

35. There shall be two sessions in each year for the despatch of ordinary civil business, to be called the winter session and the summer session respectively.

The winter session shall commence on the first ordinary court-day in *October*, and shall end on the last ordinary court-day in 15 *March*, but the sheriff may adjourn the court at Christmas-time for a period not exceeding fifteen days.

The summer session shall commence on the first court-day in *May*, and shall end on the last court-day in *July*.

Vacation
courts.

36. The sheriff, before the end of the winter session, shall 20 appoint at least one vacation court to be held in the spring vacation, and before the end of the summer session he shall appoint at least two vacation courts to be held in the autumn session.

Sittings of
small-debt
courts.

37. The foregoing provisions shall not apply to the sittings of the sheriff's small-debt court, which, as hitherto, shall be held as 25 frequently as the requirements of the sheriffdom or district may require; and it shall be competent for the sheriff-principal or the sheriffs-substitute to hold small-debt courts on circuit at such place other than the county town where the ordinary court is in use to be held, and these small-debt circuit courts shall be previously notified 30 in the "*Edinburgh Gazette*," and at least twice in the local newspaper, for a period of not less than eight days previous to the intended sitting of the circuit court. The sheriff to preside in such small-debt circuit court,—the sheriff-clerk or depute sheriff-clerk, and all other officials, shall be bound to attend the sittings of such 35 court without any extra salary, fee, or allowance whatever.

Places of
sitting of
small-debt
court.

38. Until otherwise ordered, the fixed sittings of the small-debt courts shall be at the places in the respective sheriffdoms stated in the Schedule D annexed, and the sittings of the sheriff small-debt circuit courts shall, until otherwise altered, be at the places stated 40 in the said schedule.

39. The sheriff presiding at any sitting of the small-debt court shall have power, if he deems it expedient to do so, to adjourn and remove the further hearing of any cause from his ordinary small-debt court to any small-debt circuit court, or from any circuit court to any ordinary small-debt court, and the adjournment and removal shall be duly notified by the notice given by the sheriff when he, in court, shall order the same.

A.D. 1889.
Sheriff at small-debt circuit court may adjourn, &c.

40. For the conduct of the ordinary sheriff court business of the county, every sheriff shall hold annually in his county—or, where there are sheriffdoms of two or more counties combined, then in each separate county—not less than seven separate sittings of his ordinary court for the discharge of judicial business, and such sittings shall be held at each of the places within the county, or counties where combined, where the ordinary courts of the sheriffs-substitute are held. In the case of the sheriffdoms of Sutherland, Ross, Cromarty, Orkney, and Shetland, the sittings of the sheriff-principal shall be limited to three in each county, or combined counties, during the year; and in the case of any other three or more combined counties, the sheriff-principal shall only be required to give attendance at four separate sittings of his ordinary court for each separate county.

Attendance of sheriff-principal in his county.

41. Any sheriff may pronounce or sign any interlocutor or decree when forth of his sheriffdom, which shall bear the date of the day when it is received by the sheriff-clerk and entered in the books of court.

Interlocutors issued out of county.

42. No person shall be exempt from the jurisdiction of the sheriff court on account of his being a member of the College of Justice, or on account of any other alleged privilege.

No exemption from jurisdiction of sheriff court.

43. A person carrying on a trade, business, or profession, or having a place of business within a county, shall be subject to the jurisdiction of the sheriff thereof, either ordinary, small-debt, or summary, notwithstanding he may have his residence in another county, provided he shall be cited to the action either personally or at his place of business or at his domicile, but it shall be in the power of the sheriff aforesaid to remit such action to the court of the defender's domicile.

Jurisdiction over person trading in a county.

A.D. 1889. V.—PROCEDURE IN ORDINARY COURT UNDER SHERIFF'S ORDINARY JURISDICTION, AND WHILE THE CASE IS DEPENDING BEFORE THE SHERIFF-SUBSTITUTE.

(a.) *The initiation of the Proceedings.*

Commence-
ment of
ordinary
action.

44. Every proceeding in the ordinary sheriff court shall begin 5 with a petition in the form, as nearly as may be, of Schedule E. annexed; and such petition shall set forth the court in which the action is brought, the names and designations of the pursuers and defenders, and the prayer of the petition, without any statement of the ground of action, and annexed thereto there shall be a condescence 10 containing a concise statement of the facts forming the ground of action. In the condescence, quotations from documents, printed or other matter, shall, as nearly as possible, be avoided.

Warrant of
service.

45. The warrant following on a petition, as nearly as may be, shall be in the form of Schedule F. annexed, which schedule, and 15 the notes appended, shall be construed along with this Act.

Petitions,
&c., partly
written or
printed.
Induciae in
ordinary
petitions,
charges, &c.

46. Petitions, warrants, interlocutors, or pleadings may be either wholly or partly written or printed.

47. Except in the case of petitions as against defenders in Orkney or Shetland, or any of the other islands of Scotland (except- 20 ing those from Bute, Arran, and the Cumbraes) all petitions, unless otherwise provided, shall proceed on a seven days' induciæ; and the induciæ of charge or execution following on the actions against such defenders shall be seven days, unless otherwise provided.

Orkney and
Shetland,
&c.

48. In the case of defenders resident in the foresaid islands, 25 subject to the exceptions enumerated, the induciæ of service or charge shall be fourteen days.

Shortening
of induciæ.

49. In any case where the sheriff shall see fit to shorten the induciæ, it shall be competent for him to do so.

Service of
petition.

50. Service of any petition, warrant of citation of a person as a 30 party or as a witness or haver, shall be made either by an officer of court, according to the form and procedure in use before the Act forty-five and forty-six Victoria, chapter seventy-seven, or by an officer of court or enrolled law agent sending to the known residence or place of business of the person to be cited, or to his last known 35 address, if that continues to be his legal domicile or proper place of citation, or to the office of the keeper of edictal citations where the same requires to be sent to that office, a registered letter by post containing the copy of the petition, warrant, or citation, or other document required by law to be served, with the proper citation or 40

notice appended thereto, which citation or notice sent by registered letter will be sufficient, unless the person cited shall prove that it was sent to or tendered at a place not his residence, place of business, or last known legal domicile. A.D. 1889.

5 **51.** Service by registered letter shall be according to the following requirements:— Service by registered letter.

1. The citation or notice subjoined to the copy shall specify the date of posting, and in cases where the party is not cited to a fixed diet, it shall also state the induciæ or period for lodging appearance or pleadings. 10

2. The induciæ or period of notice shall be reckoned from twenty-four hours after the time of posting, which shall be stated on the execution in the form of Schedule G., and such execution must have affixed thereto the receipt or voucher of the post office. 15

3. On the back of such registered letter, besides the address, there shall be written or printed the following:—“ This “ letter contains a citation or intimation from (specify the “ court). If delivery is not made, it is to be returned “ immediately to (specify name and office of clerk of “ court).” 20

4. If delivery of the letter cannot be effected on any account whatever, the letter shall be immediately returned through the post office to the clerk of court, with the reason for the delivery not being effected endorsed thereon, and the party who issued such petition, warrant, citation, or order shall thereafter either obtain a warrant for service of new, according to the former order or procedure, or by registered letter. 25

52. A warrant of citation against any one competently subject to the jurisdiction of a sheriff court may be served by an officer of that court in another county, without any indorsation by the sheriff clerk of such other county. Citation in another county.

53. Service of any petition or warrant, whether in an ordinary, small-debt, or summary action, shall not be competent by affixing the same to a gate or lock of the premises where admission is not obtainable, or by leaving the same with an inmate of a house after the defender has removed from the premises, or at the market cross. Abolition of lock-note citation.

54. In the case of a party furth of Scotland, service of any warrant, decree, or charge, shall be made by delivery of a copy of the petition with deliverance, or warrant, or charge, at the office of Service against defenders furth of Scotland.

12 *Sheriff Courts Consolidation Civil Code (Scotland)*. [52 VICT.]

A.D. 1889. the keeper of edictal citations in Edinburgh, in the same manner as service is made thereat of warrants of the court of session, and every citation or charge shall be duly recorded by such keeper accordingly; provided always that it shall be competent to send by registered letter a certified copy of such petition, warrant, or charge, 5 of which the keeper shall acknowledge receipt; and where the party cited or charged has a known residence or place of business in England or Ireland, a copy of such petition, warrant, or charge shall also be sent by registered post letter to such residence or place of business; and in the case of all parties furth of Scotland, the 10 induciæ of citation or charge shall be fourteen days.

No objection to service by party appearing.

55. A party appearing in an action shall not be entitled to state objections to the form or regularity of the service of the petition against himself.

Service of new in case of irregularity.

56. Where any irregularity has occurred in the service of a 15 petition, the sheriff may authorise the service to be made of new on any defender who has not yet entered appearance, and the action shall thereafter proceed as if such previous irregularity had not occurred.

Service on minor.

57. Service on a minor and on his father as curator-at-law, or 20 on a minor and his tutors and curators, if known to the pursuer, or if unknown, upon the minor himself in ordinary form and on his tutors and curators in that generic or descriptive title edictally, shall be good service against a minor for every legal purpose.

Execution of service.

58. The execution of service of a petition shall be written at 25 the end of the petition, and where necessary, on continuous sheets, but not on a separate paper, and such execution when served by an officer shall be in the form of Schedule H annexed, and when by a law agent or edictally, in the form of Schedule G annexed.

Improbation of service, &c.

59. Improbation of any execution of service or writ founded 30 on by a party shall only be allowed at the instance of the party making the challenge or his agent specially authorised by written mandate, on consignation of a sum of *two pounds* which shall be disposed of by the sheriff after such improbation has either been determined or departed from by the party. 35

Amendment of errors on petition, &c.

60. Where a petition or action is undefended, and an error or defect therein is discovered, the sheriff may allow amendment thereof either on the petition or on a separate paper signed by the pursuer or his agent, and if necessary, the sheriff may order the amended petition to be served on the defender, and of new allow 40 him to enter appearance: provided always that the expense of the

amendment shall not fall on the defender; and where diligence has followed on the defective petition, it shall only be operative against defender himself or some creditor representing him by a title or in right of a debt contracted subsequent to the use of such diligence. A.D. 1889.

5 **61.** The sheriff-clerk, on a conclusion to that effect being embodied in the petition or by separate precept of arrestment, shall grant warrant to arrest the defender's goods, monies, debts, and effects; and if arrestment is used on a petition the same shall be effectual for twenty days thereafter, provided that within said
10 twenty days service of the petition is duly made, subject to this condition, that if an arrestment falls by non-service, an arrestment of new shall still be competent. Warrant to arrest.

62. An arrestment shall only be effectual when the schedule of arrestment is personally served on the arrestee, or a copy sent to
15 him at his last known residence or place of business, through the post, by the officer serving the same, who shall in his execution state the mode of service, and shall immediately report his execution to the sheriff-clerk, or at latest within seven days, under the pain of nullity. Service of arrestment.

20 (b.)—*Decrees in Absence.*

63. On the expiry of the induciæ on any petition without appearance being entered by the defender, the sheriff shall grant decree in absence in the terms concluded for, or subject to such restrictions as may be set forth by the pursuer or his agent in a
25 minute; and seven days after the granting of a decree in absence, the sheriff-clerk may issue extract thereof. Decree in absence.

64. Where personal service of a petition has been made, or where a charge has been personally served on a defender, following on a decree in absence, and no procedure taken for reponing or
30 recall within the period of three months after the charge on such decree, the said decree, if not brought under review by legal process, shall have all the privileges of a decree in foro; and any decree in absence on which a charge is not competent unless brought under review by suspension or reduction within seven years shall be
35 thereafter final. Decree in absence served personally.

65. Within seven days of a decree in absence, on consigning with the sheriff-clerk a sum of two pounds and lodging his defences, a defender may have a decree in absence recalled by enrolling the case for the first court day or next ensuing sitting of the court;
40 and the sheriff shall, on motion then made, recall the decree in absence and allow the defences to be received, and the action shall Reponing.

14 *Sheriff Courts Consolidation Civil Code (Scotland)*. [52 VIOT.]

A.D. 1889. thereafter proceed in ordinary form. Unless there is good reason to the contrary the sheriff shall allow the consigned money to be paid over to the pursuer, and until the motion for recall of the decree is disposed of it shall not be extracted.

Reponing
note after
days for
reponing.

66. Should the defender omit to take the procedure within such 5 seven days, he may at any time before implement has followed on the petition or decree or so far as the same shall not have been implemented, present a written note explaining his failure to enter appearance or to obtain recall at an earlier date, and also lodging his defences, with five pounds, with the sheriff-clerk, and on the 10 sheriff being satisfied with the statements in such note, he shall recall the decree so far as unimplemented, and order payment out of the consigned money of the pursuer's expenses, or if not satisfied with such statements the sheriff may refuse the note or do otherwise. The balance of the consigned money shall remain until 15 the sheriff shall make an order as to its final disposal.

Service of
reponing
note.

67. A note for the recall of a decree, so far as unimplemented, after intimation of same to pursuer or his agent and until disposed of, shall operate as a sist of diligence; and on the decree being recalled, the action shall proceed thereafter as if such decree had 20 not been pronounced.

Recall of
decree not
appealable.

68. Unless leave to appeal is granted by the sheriff-substitute any order recalling a decree in absence shall be final, and not subject to review.

(c.)—*Entering appearance and Making up Records, Allowance 25 of Proof, Remits, &c.*

Lodging of
appearance.
Calling of
action and
lodgment of
defences.

69. A defender, if intending to state a defence, shall lodge a notice of appearance in the form of Schedule I annexed, at the sheriff-clerk's office before the expiration of the induciæ, and on the first court day after the expiration of the induciæ, or at an 30 adjourned diet not later than seven days from the first calling of the action, he shall lodge defences with the sheriff-clerk, which defences shall contain articulate answers to each statement in the pursuer's condescendence, with pleas in law for the defender, and, where necessary, a separate statement of facts which shall be 35 succinct and without quotation if possible.

Revisal.

70. Neither party shall be entitled to demand a revisal of the pleadings, but the sheriff may order the same on cause shown.

Adjustment
of pleadings.

71. After the defences have been lodged, or where allowed after the revised pleadings have been lodged, the case shall be put to the 40 roll of next court occurring after the lapse of four days from the

last lodgment of the pleadings, and at such court the parties or their agents shall finally adjust their pleadings and the record shall be closed. A.D. 1889.

72. Prorogations of consent of parties for complying with any statutory enactment or order of the sheriff shall not be competent at any stage of a cause. Prorogations incompetent.

73. If at any stage in a defended action one of the parties fails to appear, either personally or by his agent, at a diet of proof, or debate, or other diet, the sheriff shall proceed in absence, or unless a sufficient cause appear to the contrary and only on cause shown, and whether a motion is made or not, he shall pronounce decree as libelled, or of absolvitor, as the case may be, with expenses; and if all parties fail to appear, he shall dismiss the action. Failure of either party to appear at any stage.

74. Where a process borrowed by an agent or party is not returned to the court or to a diet in the cause, the sheriff shall impose upon the agent or party failing to return same a fine of one pound, payable to the sheriff-clerk for behoof of Her Majesty, provided always that the sheriff imposing the fine may recall the same on cause shown. Fine on non-return of process.

75. Before or at the closing of the record, the parties shall produce all documents, papers specially mentioned in their pleadings, so far as under their control or possession. Any other documents, whether in their hands or not, may be produced during the proof, but without prejudice to the sheriff to order production at any stage of the cause. Should a party fail to lodge a document at any time before judgment, the same being necessary for the decision of the cause, the sheriff may allow its production, subject to such order as to expenses or further proof as he may deem proper. Production of documents.

76. On the pleadings or revised pleadings being lodged, the case shall be sent to the adjustment roll of the first court day thereafter, and the record then closed, and the parties shall at the same time state whether they renounce probation, and if so, a minute to that effect shall be signed by the parties or their agents on the interlocutor sheets, and on this being done the case shall thereupon be debated, or at a subsequent diet of debate not later than seven days thereafter. Closing of record.

77. If the parties are not prepared to renounce probation, the sheriff shall close the record, and appoint an early day or days for taking the proof in the cause, and on such proof being closed, the parties shall be heard immediately thereafter, or, on special cause Order for proof and debate.

A.D. 1889. shown, on a subsequent day not later than seven days after the conclusion of the proof.

Interlocutor. 78. The sheriff shall pronounce judgment by a written interlocutor, and that within one month after the closing of the proof; and if judgment is not pronounced within that time, the sheriff shall specifically state in his interlocutor the reasons for the delay.

Power to order parties to meet averments without proof. 79. Where in any cause it is apparent to the sheriff that the parties in their pleadings are merely avoiding a fair answer or disclosure of the facts known to them, or one of them, and that mainly for delay or to cause expense, it shall be competent to the sheriff-substitute, either *ex proprio motu*, or by motion of a party, to call upon the opposite party to lodge written answers to interrogatories put by his opponent in writing, and thereafter, if the facts averred are sufficiently disclosed to enable the judge to pronounce findings in fact, the sheriff shall pronounce judgment without the necessity of hearing proof in the cause. If the party called upon to answer interrogatories fails to do so within the time stated, he shall be held as admitting the facts alleged in said interrogatories.

Amendments allowed, &c. 80. At any time, and on such terms as to expenses as may seem just, the sheriff may allow amendments or additions to the record which he may consider necessary for the purpose of determining the true controversy between the parties; but is shall not be competent, unless with consent of parties, by an amendment to allow any larger sum or property than that specified in the petition to be submitted to decision, or to alter the mode of probation previously ordered; provided always that such amendment shall only obviate objections to diligence used previously when the objections proceed from the defender, or from a party representing him by a title or in right of debt contracted by him subsequent to the execution of such defective diligence.

Commissions to take proof. 81. Where a witness or haver is resident beyond the jurisdiction, or is about to leave the country, or by reason of age, infirmity, or sickness is unable to attend the diet of proof, or is in such a precarious state of health as to make it important that his evidence be immediately taken, the sheriff shall have power to grant commission to any competent person to take and report the evidence of such witness or haver.

Remits by sheriff. 82. The sheriff, where he considers same expedient, may remit to persons of skill—accountants, engineers, or other persons—to report on any matter of fact or accounting; and where such remit

is made of consent, the sheriff shall hold the report to be conclusive with respect to the matter of such remit. A.D. 1889.

83. On the diet of proof being fixed, a copy of the interlocutor, certified by the sheriff-clerk, shall be a sufficient warrant for
 5 citation of witnesses or havers; and if a witness or haver fails, after a citation of at least forty-eight hours, to attend a diet, he shall incur a penalty of not less than *forty shillings*, recoverable by small-debt action, unless he can subsequently satisfy the sheriff that he had a reasonable excuse for non-attendance; and on motion
 10 of the party citing a non-attending witness, the sheriff shall grant second diligence for his being brought under custody to an adjourned diet.

Citation of witnesses.

(d.)—*The Proof*.

84. Unless the sheriff shall determine to record the proof in his
 15 own handwriting, which he may competently do, the evidence in a cause, whether led before the sheriff or on commission, shall be taken down and recorded by a skilled shorthand writer, duly sworn at the commencement of the proof, and the extended notes of such shorthand writer shall be certified by him and the sheriff as correct;
 20 and if the correctness of the extended notes is questioned by any one, the sheriff may, by additional evidence or otherwise, have the evidence first recorded corrected.

Recording of evidence.

85. The fees of the shorthand writer shall be paid mutually by the agents in each case, and at the conclusion of the proof, except
 25 in the case of actions at the instance of pursuers admitted to the poor's-roll, the fees in which, payable by pursuer, shall only be paid to the shorthand writer if and when the same are recovered from the defender.

Fees of shorthand writers.

86 The witnesses and havers shall be examined separately
 30 before the sheriff, and, except in the case of the parties to the action, they shall not be present and hearing the evidence of other witnesses and havers before they have been examined; provided always that the accidental presence of such witness or haver at the diet, and in violation of the said regulation, shall not exclude his
 35 evidence.

Conduct of proof.

87. When a proof is concluded, further proof shall only be allowed on weighty reasons, and on payment of a sum of expenses. When further proof is asked, the party making the motion shall
 40 adduced.

Allowance of further proof.

A.D. 1889.

Prorogation
of commis-
sions, remits,
&c.

88. When the time for reporting a proof, remit, or commission has expired, the party at whose instance it was granted may obtain one prorogation, on such conditions as the sheriff may consider just; provided always that unless one prorogation is granted, and if granted after the time of the prorogation has expired, the sheriff shall circumduce the party failing to report such proof, remit, or commission. 5

Examina-
tion of wit-
nesses, &c.

89. Every witness and haver adduced shall be liable to be cross-examined by the opposite party, and thereafter to re-examination by the party adducing him. 10

Reference
to oath.

90. At any stage in a cause, a party shall be entitled to refer the whole cause to the oath of his opponent, and that after lodging a written minute of reference signed by the party.

Appeal on
plea of con-
fidentiality,
right of re-
tention, &c.
stated by
party or
witness.

91. Any party to a cause, or a witness or haver in it, pleading confidentiality, whether with reference to documentary or oral evidence, or objecting to produce documents, whether on pleas of hypothec, lien, or otherwise, shall be entitled to take an appeal to the sheriff against the judgment or the finding of the sheriff-substitute during the proof; but such appeal shall only be competent at the time such party, witness, or haver is adduced as a witness or haver, and when minuted in the course of the proof as then taken, and the sheriff shall dispose of such appeal in as summary manner as practicable; provided always that such appeal shall not interrupt or delay the course of proof which shall proceed to a conclusion notwithstanding the same, and shall alone submit to review the particular point or points under consideration in relation to the plea of confidentiality, right of retention, lien, or other such objection. 15 20 25

(e.) *Protestation by Defender.*

Pursuer fail-
ing to call
action,
defender to
have right of
protestation.

92. If a pursuer fail to table and call a petition in court on the first or second court day after the expiry of the induciæ, the defender shall be entitled to crave protestation for not insisting, which the sheriff, on production to him of the service copy petition, shall grant, with a decree for *two pounds* in name of expenses. 30 35

Extract of
protestation.

93. The protestation decree shall only be extractable on the expiry of seven days; and on such decree being extracted, the defender shall be entitled to poind and arrest in common form.

Calling of
action before
extract of
protestation.

94. The pursuer shall be entitled to table and call the petition at any time after protestation and before extract, on paying to the defender or his agent the *two pounds* awarded as expenses. 40

95. On the protestation being extracted, the instance of the actain shall fall, and the defender shall only be liable to be called on a new petition and service on a new induciæ.

A.D. 1825

Protestation
extracted,
new action
necessary.

VI.—APPEALS TO THE SHERIFF-PRINCIPAL.

5 96. The following appeals to the sheriff against interlocutors of the sheriff-substitute only shall be competent, viz. —

Interlocutors
appealable.

(1.) A final judgment disposing of the merits of the cause.

(2.) An interlocutor granting or refusing interdict, interim or final.

10 (3.) An interlocutor granting interim decree for money, making an order ad factum praestandum, or sisting an action.

(4.) Allowing, refusing, or limiting the mode of proof.

(5.) Such interlocutor or order which the sheriff-substitute grants leave to appeal.

15 97. An appeal to the sheriff may be taken within seven days after the date of the interlocutor, by a note written at the end or

Form of
appeal.

on the margin of the interlocutor sheet containing the interlocutor appealed against, and in these or similar terms:—"The pursuer

" (or defender, or other party) appeals to the sheriff." The note

20 shall be signed and dated by the appellant or his agent. If the interlocutor sheet is not with the sheriff-clerk) which facts must be certified by him), the note of appeal may be written, signed, and dated as aforesaid on a separate paper, prefixing merely the name of the cause and the date of the interlocutor appealed against,

25 and having the sheriff-clerk's certificate of the absence of the interlocutor sheet.

98. On the appeal being lodged, the sheriff-clerk shall transmit the process to the sheriff, who shall determine the subsequent procedure; provided always that—

Procedure
after appeal
lodged.

30 (1.) The sheriff may appoint an oral hearing, and may thereafter hear the parties or their agents, or may order a reclaiming petition and answers within a prescribed time; but he shall not order both of these alternative courses.

35 (2.) If all parties concur in the request to the sheriff to dispose of the case without a hearing or reclaiming petition and answers, the sheriff may do so if he sees fit.

(3.) The sheriff, at any time the cause is before him on appeal, may, ex proprio motu, open up the record or allow further proof.

40 (4.) The whole interlocutors and orders in the cause shall be subject to review of the sheriff at any time that the same is

[154.]

C 2

A.D. 1889.

before him on appeal, and that without the necessity of a counter appeal, and to the effect of enabling full justice to be done.

Appeal not withdraw-able.

99. An appellant shall not withdraw or abandon an appeal to the sheriff without his leave; and an appeal may be insisted in by any other party in the cause other than the appellant to the same effect as if it had been taken by such other party.

Reclaiming petitions, &c.

100. Reclaiming petitions and answers shall not contain quotations from interlocutors, notes, proof, or record, except when absolutely indispensable.

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Regulation of procedure during appeal.

101. A sheriff or sheriff-substitute shall, notwithstanding an appeal lodged, have right to regulate all matters of an incidental character, such as orders for the preservation of the subject of the action, its realisation if perishable, the preservation of evidence, having at same time a regard to the interests of parties as these may be altered under the judgment on appeal.

Appeal not to stay interdict or sequestration, &c.

102. An interim interdict, although appealed against, shall be effective until recalled; and in like manner, an appeal shall not delay the immediate execution of a warrant of sequestration for rent, a warrant to take inventories, or to place effects in custody ad interim, or other warrants for interim preservation.

Appeal in regard to evidence.

103. An appeal to the sheriff against any interlocutor or order of the sheriff-substitute on the admissibility of evidence pronounced during the proof, after a short statement of the line of examination and the objection thereto, shall only be competent on the proof being declared closed, and before the cause is heard by the sheriff-substitute; and the sheriff may appoint any evidence he thinks ought not to have been rejected to be taken before the sheriff-substitute advises the cause.

Correction of clerical errors.

104. At any time before the transmission of a process under appeal, the sheriff-substitute may correct any merely clerical or accidental error in his judgment; and in like manner the sheriff may make similar corrections in his judgment before extract thereof or appeal therefrom to the Court of Session.

Appeals against final judgments.

100. Notwithstanding the provisions of this Act relating to appeals, an appeal to the sheriff against a final judgment of the sheriff-substitute may be competently taken at any time within one month of its date, if not sooner extracted or implemented.

Grounds of judgment to be stated.

106. In all judgments by a sheriff-substitute, or by a sheriff principal on appeal, disposing of dilatory pleas, sisting processes,

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giving any interim order, or disposing in whole or in part of the merits of the cause, the grounds of judgment shall be set forth either in an interlocutor, or interlocutor with note annexed. A.D. 1889.

VII.—APPEALS TO THE COURT OF SESSION.

5 **107.** An appeal to the Court of Session shall not be competent in ordinary causes where the principal amount sued for is less than *fifty pounds*, exclusive of the interest and expenses; and in such cases the following interlocutors shall alone be appealable: Appeal to court of session.
 10 *ad facta præstanda*, where the pecuniary value is not directly disclosed, shall remain unaffected, and appeals in these actions shall be competent :—

- (1.) Sisting process.
- (2.) Granting interim decree for money, or making an order *ad factum præstandum*.
- 15 (3.) Disposing of the whole merits of the cause, although expenses are not modified, decerned for, or have not been found due.

20 **108.** Appeals to the court of session in ordinary cases shall be competent only within three months from the date of the judgment appealed against, and after such period no appeal to or review by the court of session shall be competent. Time for appealing to court of session.

25 **109.** The form of appeal shall be in these or similar terms :—
 “The pursuer (or defender or other party) appeals to the
 “ division of the court of session,” and shall specify the particular division, and be signed and dated by the appellant or his agent. Form of appeal and its effect.
 Such appeal shall bring under review all the interlocutors or orders in the cause, whether at the instance of the appellant or the other party or parties in the cause; and a party shall not be at liberty to
 30 abandon his appeal, and the same may be insisted in by any party other than the appellant in the same manner and to the like effect as if taken by himself.

35 **110.** Where, in any former statute, exclusion of appeal by advocacy is provided, the same shall be held as excluding appeal under this statute to the court of session. Provision regarding advocations under previous statutes.

111. In all cases where judgment shall be brought under review of the court of session by appeal, it shall be competent for the sheriff to regulate in the meantime, on the application of either party, all matters relating to interim possession, having due regard to the interests of parties; and such interim orders shall only be Regulation of interim questions during currency of appeal.

A.D. 1889. subject to review by the court of session when pronouncing final judgment on the appeal.

Appeals ob
contingen-
tiam.

112. In any action or process depending in the sheriff court, it shall be competent to any party to appeal the same ob contingentiam to the court of session, by laying before the lord ordinary or either 5 division of the court a certified copy of the sheriff court record and of the interlocutors in the cause, and moving for the transmission of the sheriff court process to a process then depending in the court of session; and on the lord ordinary or division of said court being satisfied that there is a contingency between the 10 processes, he or they shall grant warrant to the sheriff-clerk for the transmission of the said sheriff court action.

VIII.—PROCEDURE IN PARTICULAR FORMS OF ACTION, AND IN SUMMARY OR SPECIAL ACTIONS FOUNDED ON STATUTORY OR COMMON LAW JURISDICTION.

15

1. *Multiplepoundings.*

Multiple-
poundings
and the rules
as to their
institution
and pro-
cedure.

113. In actions of multiplepounding, the following provisions shall have effect:—

- (1.) The party raising the action shall state in the petition the name of the real raiser. 20
- (2.) At the first calling, where no defences or objections are stated, and if such are stated and repelled, at the first calling thereafter, an order shall be made for claims, in which the parties who are claimants or alleging an interest in the fund or subject in medio shall state concisely the facts upon which 25 their claims are founded.
- (3.) If several parties' claims depend on the same ground, they may state the same in one paper, and where they are agreed on the facts, although disputed by the parties opposing, they may make one joint case of their averments, appending thereto 30 their respective claims and pleas-in-law.
- (4.) When the parties claiming an interest in the fund or subject in medio have lodged their claims, or have had an opportunity of doing so, the sheriff shall appoint a meeting of parties, and then each of the parties shall meet the averments of his 35 competitors, if necessary, and shall adjust the record; and thereafter the procedure in such actions shall be similar to that followed in ordinary actions after defences are lodged.

Consigna-
tion of fund,
&c.

114. On its being admitted or established that there is a fund in medio, and the holder making no claim thereon, the sheriff shall 40

order consignment thereof in bank or in the hands of the clerk of court, and decree of exoneration shall then be pronounced in favour of the holder of the fund, who, if he is the real raiser, shall be found entitled to retain out of the fund the expenses of raising the action until decree of exoneration is pronounced.

A.D. 1589

115. It shall be competent to any claimant called or not called to the action, or party alleging an interest in the fund in medio, to appear in a case of multiplepounding at any stage before final disposal of the cause, subject to the court finding expenses due to the other parties, according to the discretion of the sheriff.

Parties having interest to appear.

116. In any multiplepounding, it shall be competent to the sheriff, when he shall see cause, to order such further intimation or publication of its dependence, and that by advertisement in any newspaper or newspapers, or otherwise.

Power to order further intimation.

15 2. *Sequestrations for Rent.*

117. Every application for sequestration and sale, or in security of rents, whether past due or currente termino, may contain a craving for decree for payment of the rent, and it shall be competent to give decree for payment of such rent, or part thereof, which shall be extractable in ordinary form.

Sequestrations for rent and their scope.

118. When a petition for sequestration is presented, the sheriff may, either in the first deliverance on such petition, or subsequently, pronounce an order sequestrating, in urban subjects, the effects, or where in the case of agricultural subjects, crop, stocking or produce can still be competently sequestrated, and granting warrant to officers of court to inventory the same. If such order has been pronounced, and no appearance is entered on production of the execution of sequestration and service of the petition, the sheriff shall grant warrant of sale by public roup, and every sale following on a warrant shall be reported within fourteen days of the date of the roup, along with the principal roup rolls duly certified, an account of expenses, and a report of sale, which shall set forth the state of accounting with the defender, after crediting the proceeds of sale; and on approving of such report of sale, the sheriff may decern for any balance still due, or grant such order as he shall deem proper.

Subsequent procedure under sequestration for rent and sales thereunder.

119. It shall be competent to the sheriff, on cause shown, at any stage of the proceedings, to appoint a third party to take charge of the sequestrated effects, or to ordain the defender to find caution for their being made furthcoming, or, where perishable, to order their immediate sale.

Order for third party to take charge of effects, or for caution.

A.D. 1889.

Warrant to carry back what required.

120. In the case of a special warrant to carry back the effects of a tenant to premises from which they are alleged to have been removed, it shall only be necessary to particularise the articles removed, when asking for warrant to carry back, where the articles have been so removed from the premises of the petitioning landlord 5 for a period exceeding fourteen days.

Power to sequester lost by expiry of three months from last term.

121. Sequestration for past due rent shall only be competent within three months after the last legal or conventional term of payment of the year; and after the expiry of such three months, the remedies of the landlord shall be the same as those of an 10 ordinary unsecured creditor.

Breach of poiding or sequestration.

122. If any person secrete, or carry off, or intromit with any poided or sequestered effects, whether in ordinary or small-debt procedure, in fraudem of the poiding creditor or of the landlord's hypothec, such person shall be liable to summary punishment by 15 fine or imprisonment as for contempt of court, either at the instance of the party complaining, or of the Procurator-fiscal, or by the sheriff ex proprio motu.

3. *Actions of Removing.*

Actions of removing, when competent.

123. An action of removing against a tenant may be brought at 20 any time, provided there is an interval of not less than forty days between the date of service of the petition and the term of removal, or where there are separate terms as regards lands and houses, or otherwise, between the date of the service and the term of removal first in order of date.

25

Recording of lease and procedure. Effect of action of removing.

124. Where any lease or probative writing specifies a term of endurance, such lease or writing, on being recorded in the sheriff court books, shall have the same effect as an ordinary action of removing at the instance of the granter of the lease or writing, a party then in right of same against the party then in possession, 30 whether the original lessee or not, and such extracted lease or writing shall be sufficient warrant to any officer of court to eject such party in possession, on the lapse of such specified term or terms, and to return an execution in common form; provided always that previous notice to remove shall have been given at 35 least forty days before the term of removal, by causing notice in terms of Schedule J. to be served personally, or sent by registered letter by an officer of court to the party then in possession of the tenanted subjects.

Letter of removal by tenant and its effect.

125. It shall be competent for a tenant or party in possession 40 of subjects to grant a holograph letter of removal at any time

within six months of the term of removal, or, where there are two terms, within six months of the first term in date, in the form of Schedule K., and the same shall be a sufficient warrant to officers of court to eject the tenant or party in possession at the term or terms of removal; provided always that where the date of such letter is more than six weeks prior to the first term of removal, a notice by a sheriff-officer, or by registered letter, in the form of Schedule J., shall be served on the tenant or party in possession, at least forty days before the first term of removal. A.D. 1889.

10 **126.** Where houses or other heritable subjects are let for a shorter period than a year, and at a rent which would not exceed fifty pounds per annum, it shall be competent for any one entitled to sue an action of removing therefrom to present a summary application to the sheriff, in terms of Schedule L. annexed, of the county or district where the subjects are situated, and service shall be ordered in the terms set forth in Schedule M/1 annexed. Summary removing from premises of less value than 50l. per annum.

20 **127.** If the defender fail to appear after due citation, the sheriff shall proceed to give decree of removing; provided always, where it has been pronounced in absence, and not carried into execution, the defender may present a short reponing petition; and on evidence of intimation thereof to the other party, and on payment of reasonable costs to him, the sheriff may recall his decree and hear the original complaint; and provided also that, in the case of a decree in absence, the sheriff may give an order for preservation of the goods and effects of the defender. Decree of removing under summary procedure.

25 **128.** The summary application for removing, or a copy served on defender, shall be sufficient warrant to cite witnesses or havers for either party; and the fees allowed to the clerk or officers of court on such application and proceedings, and the procedure in such summary removings shall be the same as under the sheriff small-debt procedure, the decree of removal being in terms of Schedule M/2 annexed. Procedure under summary removing.

30 **129.** The sheriff, of consent of parties, or where he thinks it necessary, may allow written answers to such summary application for removal; provided always, that if a deforce is not instantly verified, the defender shall be ordained to find caution for violent profits; and all such orders shall be final and without appeal. Procedure in summary removing, if defended.

40 **130.** Where the defender finds caution, he shall be allowed to lodge written answers to the complaint, and thereafter the case shall be conducted as nearly as may be in the form of an ordinary action of removing, and the judgment of the sheriff shall in such cases be appealable. Defender finding caution, procedure to be thereafter followed.

A.D. 1889.

4. *Count and Reckoning.*

After record
closed
account
ordered and
objection
and answer.

131. In an action of count and reckoning, the pleadings of parties shall be lodged and the record closed before production of the accounts is ordered; and after such production is ordered and obtempered, the pursuer shall be ordained to lodge objections, if he has any, to the accounts; and the defender shall thereafter lodge answers thereto; the cause subsequently proceeding as an ordinary action.

5. *Interdict.*

Remedy of
interdict
when com-
petent.

132. Where a party alleges that any patrimonial interest of property, or otherwise, is in course of being injured or interfered with, or is likely to be injured or interfered with, an action of interdict shall be competent to prohibit any person from doing or continuing to do such injury or interference, and in such action it shall be competent, either in the first order for service, or at any subsequent stage of the cause, to grant interim interdict against the defender, so as to preserve the status quo ante.

Damages
may be con-
cluded for.
Breach of
interdict.

133. In such action of interdict a conclusion for damages may be inserted, and the procedure, after service of the petition, shall be similar to that in an ordinary action. In the event of any person violating the terms of the interdict, either interim or final, the party so violating the same shall be liable to be sued on a complaint as for breach of interdict, which shall include a remedy of fine or imprisonment as for contempt of court—the concurrence of the procurator-fiscal being not necessary, but the personal presence of the defender being required, when the sheriff shall pronounce judgment on such complaint.

7. *Meditatione Fugæ Warrants.*

Immunity
of agent
on petition
against
debtor in
meditatione
fugæ.

134. In the case of a debtor who is believed to be meditating flight from Scotland to avoid implement of his obligations and debts, no action shall hereafter lie against any agent taking proceedings for the purpose of averting, and arresting, such debtor.

8. *Poinding of the Ground.*

Parties to a
poinding of
the ground
and remedies.

135. In an action of poinding of the ground, the proprietor and the tenants or occupants shall be called as defenders, and the procedure shall be as nearly as possible similar to that followed in an ordinary action; provided always that, on decree being pronounced, the extract shall be sufficient warrant to poind without any other authority, and no charge shall be requisite.

9. *Petitions or Edicts for choosing Curators.*

A.D. 1689.

- 136.** An application for choosing curators shall be presented by a minor above puberty in the sheriff court of his domicile by a petition in ordinary form with condescendence annexed, in which
5 two of the next of kin on the father's side and two on the mother's side shall be called on a seven days' induciæ as defenders, to hear and see the curator chosen and the curatorial inventory given up.
- 137.** The next of kin so called as defenders shall be cited in ordinary form, and it shall no longer be necessary to cite "others
10 having interest" at the market cross.
- 138.** On the petition being called in court, the minor, being personally present, shall make choice of one or more parties to be his curators, who shall then accept office in writing and take oath.
- 139.** After such procedure, the curator or curators shall give up
15 in writing an inventory of all the minor's property, of which three copies shall be lodged with the sheriff clerk, one for the next of kin, one for the curator, and the third to be recorded in the books of court.
- 140.** After recording of the inventory, the decree or extract of
20 the curatory shall be given out, and the curator shall be entitled to act for the minor in all lawsuits and ordinary business.

Form and instance of application.

Citation of respondents.

Procedure in court.

Recording of curatorial inventory.

Extract of act of curatory.

IX.—EXPENSES, THEIR ASCERTAINMENT, &c.

- 141.** It shall be competent for the sheriff to find either or any parties liable in expenses to his or their opponent or competing
25 claimant, with power to the sheriff to modify costs, or to disallow the costs applicable to a particular part of the litigation in which the party has been unsuccessful.
- 142.** The account of expenses in an action shall always be taxed by the auditor of court before extract of the decree.
- 143.** The sheriff, upon the application of the agent who conducted the action, may allow the decree for expenses to go out and
30 be extracted in the name of the agent.
- 144.** Where expenses have been imposed on any party by an interlocutor pronounced during the progress of the cause, no claim
35 for repetition thereof shall be competent thereafter.
- 145.** It shall be competent for either party, within forty-eight hours after an account has been lodged after taxation, to lodge a note of specific objections to such taxation, which the sheriff shall dispose of with or without answers, as he shall see cause. No

Decree for expenses.

Taxation or audit.

Extract in name of agent.

No claim for repetition of expenses.

Objections to audit.

A.D. 1889. — appeal shall be competent against the interlocutor following on such objections, unless the same is marked forty-eight hours from the date of the interlocutor of the sheriff substitute.

Petition for taxation of agent's account against his client.

146. For the purpose of ascertaining accounts due to law agents by their own clients, it shall be competent either to the agent or the client to present a summary petition to the sheriff before whom the cause depended to get the account claimed by the agent audited and taxed; and on such application being served on a seven days' induciæ, the order shall forthwith be granted, and the account shall be audited and taxed, and the parties shall have power to lodge objections, all in manner above provided. 5 10

Procedure under same.

147. The sum so ascertained as the amount of the account shall form the only charge against the client, and a decree may issue therefore; provided always, that the judgment of the sheriff shall be subject to appeal in common form. 15

If objection by defender, ordinary action to follow.

148. If, in such summary application, liability for payment of the account is disputed by the client, the agent shall then proceed by an ordinary action.

X.—EXTRACTS OF DECREES, &C., AND DILIGENCE FOLLOWING THEREON AND ON WARRANTS OF COURT. 20

Extracts and times for extracting.

149. Decrees in ordinary sheriff court actions, and in all special or summary actions in the ordinary sheriff court, may be extracted after the expiry of ten free days from the day when the interlocutor is pronounced on the merits, and that whether there has been any finding on the question of expenses or not (forty-eight hours having also expired after a modification of expenses in litigated causes), except in those cases where extract shall be superseded, or where the sheriff shall find it expedient to allow extract immediately, or within a shorter time than ten free days. 25

Extract in undefended action.

150. In undefended actions, including petitions or applications in which, while appearances shall have been entered, no defences are lodged, extract of the decree shall be competent on the expiry of seven clear days. 30

Form of extract and diligence competent.

151. Extract of a decree shall be issued by the sheriff-clerk conformably to the judgment or prior proceedings on which it professes to be authorised, and shall be authenticated by his signature at the end thereof; and such extract shall be a sufficient warrant to charge the debtor to pay the debt or perform the obligation within the days of charge, under the pain of poinding, and warrant to arrest and poind according to present practice, and, if 35 40

need be, to open, shut, and lock-fast places. And where an extract has been issued, it shall be competent for a person subsequently acquiring right to such extract to present the extract, and an execution of charge, if such charge has been given, with a minute in terms of Schedule O. annexed, praying for execution at the instance of said party acquiring right to the same, and the extract, with a deliverance thereon, shall be a warrant against the debtor at the instance of such person having acquired right to such decree. A.D. 1889.

152. On the expiry of seven days, being the days of charge on an extract decree, the debt contained in the same, principal, interest and expenses, shall accumulate into one capital sum, whereon interest shall thereafter become due and payable. Accumulation of principal, &c., after charge.

153. On the expiry of the said days of charge, and the debtor or obligant not having previously implemented the same, all lawful execution and diligence shall be competent against the debtor and his property, whether by sale of poinded goods, or action of forthcoming, or multiplepoinding following on arrestment. Diligence after charge.

154. All extracts of writs, deeds, or other documents which contain a clause of registration for preservation and execution, and are registered in any sheriff court books, and extracts of protests of bills, promissory notes, or bankers's notes shall contain a warrant of execution, in the short form contained in Schedule P. annexed, and on such extract and warrant of execution the same execution and diligence shall be competent as under an extract in the longer form following on an interlocutor or decree in an action in the sheriff court. Recording of bills, deeds, &c.

155. Where a debtor or obligant is, or his movables are, within the territory of any other sheriff than the sheriff from whose court extract shall have been issued, it shall be competent to present the extract to the court within whose jurisdiction the debtor or obligant is, or his movables are, with a minute endorsed thereon praying for the concurrence of the sheriff to charge, or arrest, or poind the movables, and to open shut places and do final diligence thereon, and the sheriff-clerk of said court shall, by fiat signed by him, grant such concurrence in terms of Schedule O. annexed. Diligence against debtor in other county.

156. A warrant of arrestment in security may be obtained either by special precept from the sheriff, or may be contained in the prayer of the petition; and before serving said petition it shall be competent to arrest the movables, ships and money belonging or owing to the defender; provided always, that such arrestment prior Warrant to arrest, how obtainable, &c.

A.D. 1889. to service of the petition shall only be effectual if the petition is served within twenty days of such arrestment.

Arrestment of wages limited.

157. An arrestment of wages, whether under ordinary, summary or small-debt actions, shall only be effectual to attach the surplus earned or payable above *forty shillings* per week, but this exception shall not affect arrestments on decree for alimentary allowances, or for rates and taxes, whether imperial or local. 5

Arrestments beyond territory of sheriff granting first warrant.

158. An arrestment as in the hands of a person furth of Scotland shall be served at the office of the keeper of edictal citations at Edinburgh, and to execute a warrant of arrestment in a sheriffdom other than that from which it was issued, it shall be necessary to obtain an endorsation of the warrant by the sheriff-clerk of such other county or sheriffdom. 10

Restriction or recall of arrestments.

159. It shall be competent to the sheriff from whose books a warrant of arrestment has been issued, on the petition of the debtor or obligant intimated to the creditor, to restrict or recall such arrestment, with or without caution, provided that on such application the sheriff shall proceed as in an ordinary sheriff court action, and his judgment shall be reviewable in the same manner. 15

Prescription of arrestments.

160. All arrestments shall prescribe on the expiry of three years from the date of execution of the same. 20

Arrest of a ship.

161. The arrestment of a ship may be executed in virtue of a warrant contained in the petition and first deliverance, or under a special precept of arrestment applicable to maritime subjects, and the officer carrying out such diligence shall proceed on board the vessel along with a witness and affix to the mainmast, or if there be no mainmast to the sternpost, a schedule with the letters V.R. above the same, and, if necessary, the sheriff shall have power, on a minute craving the same, to order that the vessel be dismantled in order that she may not be removed from the jurisdiction. 25 30

Arrest and dismantling of ship for debt of part owner and action of sale thereon.

162. It shall be competent to arrest and dismantle a ship even for the debt of a part-owner thereof; and to make the diligence effectual towards obtaining implement of a decree, an action of sale under warrant of court shall be brought, under which the proceeds, after sale by public roup, shall be applied in payment of the debt, and any surplus consigned in court for behoof of whom it may concern. 35

Action of furthcoming or multiple-poining.

163. To complete the diligence of arrestment and compel payment or satisfaction, an action of furthcoming shall be brought against the arrestee and the common debtor, but where there is a 40

competition of claimants or arrestees a multiplepounding shall be brought, and under either of such processes the arrestee shall be entitled to demand from the arrestee or arrestees payment in satisfaction of the sums contained in the original decree. A.D. 1889.

5 **164.** When an officer shall proceed to poind movable effects under an ordinary sheriff court extract, he shall, if required before the poinding is completed, conjoin in it any creditor of the same debtor who shall produce a lawful warrant to poind, and on the conjoined poinding two valutors shall be necessary, with only one
10 valuation.

Poinding and conjunction of another creditor.

165. The poinded effects shall be left with the person in whose possession they are, and such person shall receive a schedule specifying the poinded effects, their value, and the poinding creditor.

Schedule of poinding served on person holding same.

15 **166.** The officer's report of poinding shall contain the amount of the debt, the names and designations of the creditor and debtor, the value of the effects, the names and designations of the valutors, the person in whose hands they were left, which report shall be signed by the officer and the two valutors, and lodged at the sheriff-
20 clerk's within seven days of the poinding.

Report of poinding lodged before warrant to sell.

167. On the report of poinding being lodged, the sheriff shall grant warrant of public sale (and in the case of perishable goods, or requiring extra security, he may deal specially with them) and after due advertisement of the sale and notice to the debtor, the
25 public roup shall take place not sooner than seven or later than fourteen days after intimation to the debtor and publication by advertisement.

Sale under poinding.

168. If no third party appear to offer the appraised value of the separate poinded articles, they shall be delivered to the poinding
30 creditor by the judge of the roup, but whether so delivered or sold to third parties the sale shall be reported to the sheriff, with certified copies of the roup roll and an account of the proceeds and expenses of sale, which sum the sheriff may, if he thinks it necessary, order to be lodged in court, and if no cause to the contrary be
35 shown he shall approve of the report of sale and appoint the proceeds to be paid over to the selling creditor; provided always, that at any such sale the creditors of the debtor or the poinder himself can purchase the effects exposed for sale.

If no third party purchases, poinded effects offered to creditor.

169. If any person unlawfully carry away or intromit with
40 poinded effects, he shall be liable, on summarily complaint, to

Removal of poinded effects punishable.

A.D. 1889. imprisonment until he pay the value or restore the effects removed or intromitted with.

XI.—SMALL-DEBT JURISDICTION AND PROCEDURE.

170. All civil causes and prosecutions for statutory penalties, sequestrations for rent, and maritime civil causes and proceedings, 5 wherein the debt, or penalty or subject in dispute, *ex facie* of the claim, does not exceed twenty pounds, may be tried in the sheriff small-debt court as herein-after provided; provided always, that the pursuer shall be held to have abandoned any remaining portion of the debt or penalty beyond the sum actually concluded for in such 10 cause or prosecution.

Petition and citation.

171. All such causes and prosecutions, herein-after styled "small-debt actions," shall proceed upon a petition in the form of Schedule Q. annexed, containing warrant to arrest on the dependence, and stating shortly the ground of action, and concluding 15 against the defender for payment of a sum of money. On the issue of such petition, signed by the sheriff-clerk, the defender shall be cited to appear in court at the time and place mentioned in the petition, not sooner than the sixth day after the citation, and the petition, or a service copy thereof, shall be a sufficient warrant for 20 citing such witnesses as either party requires.

Sequestrations for rent.

172. Small-debt sequestrations for rent and sale shall proceed by petition, in as near as may be the form of Schedule Q., sub-section (b) annexed, and in executing the warrant the effects sequestrated shall be appraised by two persons who may be also witnesses to the 25 sequestration, and an inventory of the sequestrated effects, with the appraised values, shall be left with the defender, who shall be cited as in the case of an ordinary small-debt petition, and an execution of the citation and of the sequestration, with list appended of the appraised effects, shall be returned to the sheriff-clerk within three 30 days after service.

Calling of small-debt sequestration.

173. On the calling in court of such small-debt sequestration, the sheriff shall dispose of the petition as in the manner prescribed in this division of this statute, and may recall the sequestration in whole or in part, or give decree and grant warrant to sell on the 35 premises or at such other place, and after such notice as he may consider proper, and failing such direction, then in the manner herein-after provided for selling pointed or sequestrated effects; provided always, that the tenant paying the rent and expenses after sequestration, or consigning the rent and *two pounds* towards 40

expenses with the sheriff-clerk, shall be entitled to have the sequestration recalled, the sheriff-clerk indorsing on the summons or a service copy thereof "payment (or consignment) made." A.D. 1889.

174. Arrestment on the dependence of a small-debt petition shall be competent in the hands of any third party, either within the county of the defender, or in any other county, the execution being in terms of Schedule R 1; provided always, that if used in another county the petition must be indorsed by the sheriff-clerk of such other county. Arrestments.

175. Arrestments used on a small-debt petition shall determine on the expiry of three months from the date of the execution of the arrestment, unless an action of multiplepoinding or furthcoming shall be brought before the expiry of such period, in which case the arrestments shall stand until the termination of such actions. Lapse of arrestment.

176. Any arrestment used on the dependence of a small-debt petition shall be loosed on the defender consigning the amount of the debt and *seven shillings and sixpence* of costs with the sheriff-clerk, or lodging with him a bond of caution by one or more cautioners to the satisfaction of the sheriff-clerk, in terms of Schedule W., or on producing evidence of the debt having been paid since the petition was served, or of decree of absolvitor having been pronounced, and a certificate in such cases by the sheriff-clerk in the form of Schedule X. shall operate as a loosing of all arrestments used on such petition. Loosing of arrestments.

177. An action of furthcoming where the sum sought to be made furthcoming shall not exceed *twenty pounds*, exclusive of expenses and dues of extract, shall be brought in the small debt court by petition in as near as may be the form of Schedule Q., sub-section (c), concluding for payment of the sum for which arrestment has been used, or for delivery of the goods or effects arrested, which petition, when signed by the sheriff-clerk, shall be a sufficient warrant to cite the arrestee and common debtor to appear at the small debt court of the county of the arrestee's residence, and for summoning witnesses and havers, the petition being indorsed by the sheriff-clerk of the county in which the common debtor resides, if that be a different county from that in which the action is brought; provided always, that in such case the common debtor shall have an induciæ of twelve instead of six days, where he is cited to appear in another county, and both parties shall be convened to appear at the same diet or court; and further, that the pursuer of a furthcoming shall not, by that action, be held as restricting his claim against the common debtor. Furthcoming.

[154.]

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A.D. 1889.

**Multiple-
poin-
ding.**

178. An action of multiplepoin-
ding where the sum held and
claimed does not exceed *twenty pounds*, shall be brought in the
small debt court to which the holder of the fund shall be amenable,
and that in the form, as near as may be of Schedule Q., sub-
section (d), annexed, and the claimants and common debtor, and 5
also the holder of the fund if he be not the raiser of the action,
shall be cited to appear in court in the manner directed in the case
of a small debt furthcoming, but no judgment preferring a party
to the fund shall be given at the first calling, or until due intima-
tion is given in such manner as may seem proper, in order that all 10
parties may appear and lodge claims in the form of Schedule U.
annexed, and the sheriff shall hear and decide the cause in the
summary manner applicable to small debt actions.

**Counter
claims.**

179. Where a defender intends to plead a counter claim against
the sum or penalty sued for, he shall only competently do so after 15
service of said counter claim in the form of Schedule R/2, and
that, at latest, twenty-four hours before the court at which the
action is to be heard.

**Citation of
witnesses.**

180. Any officer of court can cite witnesses and havers on
receiving from the pursuer the principal petition, or from the 20
defender the service copy petition; and if a witness or haver reside
in another county, the petition or copy shall be indorsed by the
sheriff-clerk of such county; and if a witness or haver fail to
appear at the diet for which he is cited, if cited at least forty-eight
hours before the same, he shall forfeit *forty shillings* unless a 25
reasonable excuse for non-attendance is given, with right to the
sheriff to issue letters of second diligence against non-attending
witnesses and havers.

**Allowance
of law agents
in special
causes.**

181. Agents may appear for a party in the small-debt court,
and the sheriff may allow a law agent, if he thinks fit, a special 30
agency fee, but that only in litigated causes; such fee in no case
to exceed *three pounds* in actions above ten pounds, and *one pound*
in actions under that amount.

**Hearing and
procedure
before the
sheriff.**

182. When the parties appear in court the sheriff shall hear
them viva voce, examining witnesses or havers on oath, and the 35
parties themselves being put on oath, or oath in supplement or on
reference being administered; and if the sheriff see cause he may
remit to persons of skill to report, or to any person to take and
record in writing the evidence of witnesses or havers unable to
attend, the cause of inability being entered in the book of the 40
court, and thereupon the sheriff may pronounce judgment orally.
And the decree stating the judgment and the amount of expenses,

if any, found due to any party (which may include personal charges, if awarded), with warrant for arrestment or poinding, shall be annexed to the petition on the same paper, conform to Schedules S. or T. annexed, or to the like effect, which being signed by the clerk, shall be warrant for instant arrestment and for poinding and sale where competent, after the expiry of seven free days from the date of decree, if judgment was pronounced against the party found liable when personally present; poinding and sale shall only proceed after a charge of seven free days by service of the decree on the party found liable in terms of charge and execution conform to Schedule Y., and if such decree is not enforced by poinding within a year from the date thereof, it shall fall unless a new charge is given thereon.

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183. If a defender has been duly cited, and fails to appear personally, or by one of his family, or by such person or agent as the sheriff may allow (such person not being an officer of court), the defender shall be held as confessed, and decree in absence shall pass against him; and in like manner, if a pursuer does not appear either personally or representatively, as aforesaid, the defender shall obtain decree of absolvitor, unless in either case sufficient reason for the absence or delay shall be given to the sheriff, who may thereupon adjourn the case to the next, or any other court day.

If no appearance by one or other party, procedure thereon.

184. Where a decree in absence is pronounced against the defender, he may at any time before a charge is given, or if such charge is given before implement has followed thereon, and within three months of the charge, on consigning with the clerk the expenses decerned for, and the further additional sum of *ten shillings* to meet further expenses, obtain a sist signed by the clerk, which shall stop all proceedings on said decree until the next court day, or until the sheriff has disposed of such sist, and the clerk shall be bound to certify to the sheriff on the next court day every application for a sist, and such sist on being served on the pursuer shall be an authority for hearing the case, and in like manner, where absolvitor has passed in absence of the pursuer, he shall have the like remedy of a sist within one month of the date of the decree, and such sists shall be served in any county without indorsation, and the sum of expenses originally awarded shall, in the general case, be paid over out of the consigned money to the party first found entitled thereto; provided always that a sist, at the instance of a pursuer or defender, shall only once be competent to each party in a cause.

Sist against decree in absence.

- A.D. 1889. **185.** The sheriff may, if he thinks proper, direct the sum or sums found due to be paid by weekly, monthly, or other instalments, and under such conditions as he may think proper.
- Instalment decree.
- Enforcement of decree in other county. **186.** Any small-debt decree may be enforced in any county, provided always that the extract thereof be previously indorsed by the sheriff-clerk of the county other than the county where first issued.
- Witnesses to executions. **187.** All small-debt charges and arrestments and executions of same, shall have only one witness's signature thereto.
- Actions for damages, penalties, assessments, &c., competent. **188.** All actions of damages, for compensation, for loss and injury by unlawful or riotous assemblies, for statutory fines or penalties, and for assessments, taxes, or imposts, may be sued in the small-debt court, where the sum claimed does not exceed twenty pounds.
- Sequestration and sale or poinding sale. **189.** A small-debt sequestration and sale, or a poinding and sale, shall be carried into effect by the officer in a summary way, by having the effects sequestered or poinded duly appraised by two persons, who may be also witnesses to the sequestration or poinding, and leaving an inventory thereof for the party whose effects they are, and not sooner than forty-eight hours thereafter carrying the effects to the nearest town or village, or where executed in a town or village, to the cross or most public place therein, and selling the same by public auction, between twelve noon and three afternoon, on previous notice, at least two hours before by the public crier, reserving to the sheriff for any special reason to vary the place and time of sale.
- Reporting sales under sequestration or poinding. **190.** In small-debt sequestrations and sale, or poindings and sale, the surplus of the price of the effects, if there be any, after payment of the sums decerned for and expenses, including the expenses of sale, shall be handed to the owner, or consigned with the sheriff-clerk if he cannot be found; and if the effects are not sold, they shall be delivered over at the appraised value to the creditor to the amount of the debt and expenses, and allowance for expense of sale; and a report of the proceedings and the proceeds, or, if not sold, of the delivery of the effects, shall be made by the officer to the sheriff-clerk within eight days, in terms of Schedule V. annexed.
- Sale of arrested effects. **191.** Where the sheriff shall order a sale of arrested effects, the same procedure shall be followed as in poindings and sale; and if any person conceals, or carries away, or intromits with poinded or sequestered effects, such person shall be punishable as for contempt

of court, either ex proprio motu of the sheriff or on complaint of the private party, besides being liable otherwise, in terms of law. A.D. 1889.

192. The sheriff-clerk shall keep a book of small-debt causes, setting forth therein the names and designations of the parties, and whether present or absent at the calling of the action, the nature and amount of the claim, the mode of citation, the cause of a law agent's appearance, the several deliverances, and the final degree, with the date thereof, which book, in form similar to Schedule Z. annexed, shall be signed each court day by the sheriff; and the clerk shall cause a copy of the roll of causes to each court day to be exhibited in a convenient place within the court-house at least one hour before the meeting of court and during its sitting and the officer of court shall audibly call in court the names of the pursuers and defenders in order on the roll.

Books to be kept by the clerk.

193. The sheriff-clerk shall keep a book or books containing a register in connection with small-debt causes of all indorsations of warrants from other counties, warrants for arrestment on the dependence, loosing of arrestments, reports of poindings or sequestrations and sales thereunder, which registers shall be open to inspection in the clerk's office without fee.

Books to be kept by the clerk.

194. A decree in any small debt cause or prosecution shall not be subject to reduction, suspension, or appeal, or any form of review or stay of execution other than is provided in relation to small-debt causes, either on account of omission, or irregularity, or informality, or on the merits or on any ground whatever; provided always that where, in an ordinary action or in a small-debt action the conclusions in which do not exceed *fifty pounds* sterling, a party alleges (1) corruption or malice or oppression on the part of a sheriff, or (2) such deviation in point of statutory form or enactment as the court may think wilful or has prevented justice being done, or (3) incompetency, including defect of jurisdiction; it shall be competent to a party conceiving himself aggrieved on any or all of these reasons to bring an appeal to the next circuit court of justiciary, or where there are no circuit court, to the High Court of Justiciary, in the manner and according to the rules contained in the Act for taking away and abolishing the Heritable Jurisdictions in Scotland (except in so far as altered by this Act), being the Act twenty George the Second, chapter forty-three.

Small-debt decree not reviewable.

195. Where such appeals are taken, they shall be heard and determined in open court, and the court may correct deviations in point of form, or remit the cause back to the sheriff, with instruc-

Circuit court appeal.

A.D. 1889, tions to re-hear the same; and it shall only be competent under such appeal (1) to produce or found upon such documents as evidence on the merits of the cause as were originally produced to the sheriff when the action was heard, and were initialed or signed by him as produced, which he is only bound to do if required; and 5 (2) to found upon or refer to the evidence of witnesses actually examined, and whose names are written by the sheriff on the principal petition, which he shall do if required; provided always, that no sist of the decree and certificate of lodgment of appeal shall be issued by the sheriff-clerk, unless consignment of the 10 principal sum and expenses in the decree is made, and a bond given for the expenses to be incurred or found due under the appeal.

Fees in small-debt court.

196. The fees payable to the sheriff-clerk and the officers of court and other officials in connection with small-debt procedure 15 and execution following thereon shall be those stated in the second part of Schedule Ff. annexed to this Act; and a book containing the roll of causes for the day in which the court is sitting shall be publicly exhibited during the sitting of the small-debt court, in the court or entrance to the same, and shall be accessible to 20 litigants and other parties without any charge for inspection thereof.

Fees to be shown on printed petitions.

197. Appended to the principal and service copies of petitions in small-debt actions there shall be printed the table of fees relative to small-debt procedure and execution following thereon. 25

XII. CONFIRMATION OF EXECUTORS, &c.

Abolition of commissary court and its transfer to sheriff court.

198. The commissary court having been abolished under the Act thirty-nine and forty Victoria, chapter seventy, and its powers and jurisdictions transferred to the sheriff of the commissariat or court then exercising the powers and jurisdictions of the commissary, 30 the said abolition and transfer is hereby re-enacted, and the following provisions towards the complete combination and transfer shall be read and construed as in continuation of and in no ways derogating from the provisions of said recited Act.

Abolition of commissary clerkship and its transfer.

199. In every case of a vacancy occurring on and after the passing 35 of this Act, the office of commissary-clerk shall cease, and the whole powers and duties of the office shall be, and the same are hereby transferred to the office of sheriff-clerk, and the sheriff-clerk and his successors in office shall possess and exercise the powers and perform the duties of such former commissary-clerk. 40

- 200.** Every commissary-clerk whose office shall not be abolished at the commencement of this Act shall perform in the sheriff court of the county all the duties and exercise the powers before exercised by him in the commissary court; and the provisions herein-after
5 contained, in which the name of the sheriff-clerk occurs, shall be held as applying to such commissary-clerks whose offices are not yet abolished, provided always that such commissary-clerk shall not be debarred from acting as a law-agent in any cause, except in causes in which he shall also act as clerk of court. A.D. 1889.
Present
commissary
clerks to
continue
discharging
duties in
sheriff
court.
- 201.** On the office of commissary-clerk being in any case abolished or ceasing in virtue of this or former Acts, the records, books, papers, and things belonging to the office or in possession of such
10 commissary-clerk shall forthwith be transferred to and kept by the sheriff-clerk in his office, who shall account to the Queen's and Lord Treasurer's remembrancers thereafter for all fees received in con-
15 nexion with such new business transferred from the commissary-clerk. Abolition of
commissary
clerk and
transfer of
books.
- 202.** In the case of any person dying domiciled in a county without having named executors under a settlement or testamentary
20 writing, every person desirous of being decerned executor of such deceased person as disponent, next of kin, creditor, or in any other character whatsoever presently competent (herein-after described as executor-dative), shall present an application in the sheriff court of the county or district of the county of the deceased's domicile, in
25 the form of Schedule AA. annexed, which petition shall be subscribed by the party applicant or his agent. Appointment
of executor-
dative.
- 203.** In the case of persons dying domiciled furth of Scotland, or without any fixed or known domicile, having personal property
30 in Scotland, the application shall be made to the Commissary of Edinburgh. Estates of
persons
dying furth
of Scotland.
- 204.** The following shall be the rules of precedence in the office of executor to a deceased person, and subject to such rules
the sheriff shall appoint executors-dative to the estates of persons
dying without having named executors under a settlement or
35 testamentary writing, viz. :— Rules of
procedure in
appointment
of executor-
dative.
- (1.) General disponents or general legatees.
 - (2.) The next of kin in their order, those of the same degree who apply taking the office jointly, and the nearer excluding the more remote degree.
 - 40 (3.) The widows.
 - (4.) Creditors.

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(5.) Special legatees, and in the case of subjects of foreign States dying in Scotland, the consul or vice-consul of the foreign State, provided there be no other person lawfully entitled to administer.

Confirmation
of executors-
nominate.

205. In the case of any person dying in Scotland and having 5
named executors under a settlement or testamentary writing, the
title of such executors-nominate, or of those who have accepted
office and agreed to act, shall be completed by a confirmation granted
by the sheriff of the county of deceased's domicile, in favour of such
executors, and that after lodging an inventory of the personal estate 10
of the deceased, and after recording the testamentary writing in the
books of court. The confirmation in the case of executors-nominate
shall be in the form of Schedule Bb. annexed, and shall be styled a
testament-testamentar.

Intimation
of petition
for appoint-
ment of
executor-
dative.

206. Petitions at the instance of persons applying to be appointed 15
executors-dative shall be intimated by the sheriff-clerk at the court
house, by affixing a full copy of the petition on the board for the
purpose, or on some conspicuous place therein, and by the keeper
of the record of edictal citations at Edinburgh, by his inserting, in
a book kept for that purpose, the names and designations of the 20
petitioner and of the deceased person, the place and date of death,
and the character in which the petitioner seeks to be decerned
executor, which particulars shall be published by said keeper weekly,
along with abstracts of petitions for service, in the form of
Schedule Cc. annexed. And to enable the keeper of such register 25
to carry out the aforesaid regulations, the sheriff-clerk shall transmit
to him the said particulars, and the keeper shall grant a certificate
to the sheriff-clerk of such publication, in terms of Schedule Dd.
annexed.

Competing
petitions.

207. Where a second or competing petition for confirmation is 30
presented in reference to the same personal estate, the sheriff-clerk
shall direct intimation of such petition to be made to the party or
parties who presented the former petition or petitions.

Intimation
of petition
and proce-
dure.

208. On the expiry of seven days after the clerk shall have
certified the intimation and publication of the petition, it shall be 35
called in court and an executor decerned, or other procedure fol-
lowed, according to the practice prior to the passing of this Act ;
and the decree dative may be extracted on the expiry of seven days
thereafter.

Form of
confirma-
tions.

209. Confirmations shall be in the form as nearly as may be of 40
Schedules Ee. hereto annexed.

210. Oaths and affirmations on inventories of personal estates may be taken either before the sheriff-clerk or his deputes—any notary public not acting for the deponent, or concerned in the estate, or before any magistrate or justice of the peace, or if abroad, before any justice of the peace, or British consul.

A.D. 1889.
Taking of
oaths to
inventories.

211. On the confirmation of executors-nominate or dative being completed, and their formal title of testament-testamentar or testament-dative being signed and issued, they shall be entitled to receive and uplift and discharge the whole moneys, movable estate and effects of the deceased; provided always, that an executor-nominate or dative, before completion of his title, may sue for payment or delivery of the estate, or part of the estate, of the deceased; but until completion of such title he cannot discharge the debtor or debts.

Effect of
confirmation.

212. Where property has been omitted to be given up in an inventory of personal estate, the executor shall give up an additional inventory called an eik, and power will thereafter be given to administer the effects specified in such eik.

Eik to an
inventory.

213. Where it shall be desired in an inventory of personal estate of a party dying domiciled in Scotland, to include personal estate situated in England or Ireland, the fact shall be set forth in the affidavit to the inventory, and such being done the sheriff-clerk shall insert in the confirmation, or add a note thereto, to the effect that the deceased died domiciled in Scotland; provided also, that the value of such personal estate in England or Ireland shall be separately stated in the inventory, which shall be impressed with a stamp corresponding to the entire value of the estate, wheresoever situated, in the United Kingdom.

Including of
property in
England or
Ireland in
inventory.

214. On the exhibition of an inventory of personal estate, with confirmation in terms of the preceding section, at the principal Court of Probate in England or in Ireland, with a copy of the inventory to be left with the registrar, such confirmation shall be sealed with the seal of the court, and returned to the person producing the same, and shall thereafter have the like force and effect in England or Ireland, as if a probate or letters of administration had been granted by the said respective courts of probate.

Exhibition
of Scotch
inventory to
Probate
Courts of
England or
Ireland.

215. Where an additional inventory has been given in, and confirmation granted in a sheriff court in Scotland of estate situated in England or Ireland belonging to a person dying domiciled in Scotland, the exhibition of such additional inventory and confirmation having a note or statement that the deceased died

Additional
inventory.

A.D. 1889. domiciled in Scotland, to the registrar of the Probate Court in England or Ireland, shall, notwithstanding the principal confirmation has not been so exhibited, receive the full force and effect, as if probate or letters of administration, as the case may be, had been granted by the Court of Probate in which it has been sealed. 5

Confirmation with note of funds in England or Ireland.

216. When any confirmation or additional confirmation of personal estate situated in Scotland which shall contain a note or statement of funds in England or Ireland, or both, held by the deceased in trust, shall be produced in the principal Court of Probate in England or Ireland, as the case may be, such confirmation shall be sealed with the seal of the said court, and such confirmation so sealed shall thereafter have the like effect with respect to such funds as if probate or letters of administration had been granted in England or Ireland by the Court of Probate in which it had been sealed; and the note or statement as to the funds held in trust may be signed or appended by the clerk of court, provided the same is set forth in the inventory recorded in the sheriff court books. 15

Probate in England or Ireland with note of funds in Scotland.

217. When a probate or letters of administration are granted by a court of probate in England or Ireland to the executor or administrator of a person who shall therein, by a note or memorandum written and signed by the proper officer, stated to have died domiciled in England or Ireland, as the case may be, shall be produced in the Commissary Court at Edinburgh, and a copy deposited with the clerk, the clerk shall indorse on the back or face of such grant a certificate in these terms:—"I, A.B., commissary clerk of the county of Edinburgh, hereby certify that this grant of probate has (or these letters of administration have) been produced in the Commissary Court of said county, and a copy thereof deposited with me;" and such probate or letters, being duly stamped, shall be of the same force and effect as if a confirmation had been duly granted in Scotland. 25 30

No two probates or confirmations to be issued for estate of one deceased.

218. In any of the cases foresaid, where the party dying domiciled in one country has been possessed of personal estate in another country of the United Kingdom, there shall be confirmation, or probate, or letters of administration issued only in one of the countries, and it shall include all the deceased's estate wherever situated within the United Kingdom, and the stamp duty to be affixed shall be of the amount applicable to the value of the entire personal estate of the deceased. 35 40

219. The commissary clerk at Edinburgh, before the thirty-first December in each year, shall prepare and issue a printed calendar, containing a registry, alphabetically arranged, of all confirmations granted and of inventories given in in cases in which, from any
 5 cause, confirmation shall not have been required in the year ending *thirty-first December* preceding, specifying in each case the name, designation, date and place of death of the deceased, whether testate or intestate, the names and designations of his executors, the date of confirmation or recording the inventory, the date of the
 10 will or deed, if any, and the value of the estate.

A.D. 1889.
 Calendar of confirmations, &c.

220. To enable such registry to be kept and issued, each sheriff-clerk shall quarterly, before the *first April, first July, first October, and first January* in each year, furnish particulars of the same description as those above enumerated relative to the estates and
 15 confirmations granted within the sheriffdom; *and the cost of preparing, printing, and issuing such registry shall be defrayed out of moneys provided by Parliament.*

Particulars for calendar of confirmations to be furnished.

221. A copy of every calendar or registry shall be forwarded by the commissary clerk at Edinburgh to every sheriff-clerk, who shall
 20 keep the same open for inspection, on payment of a fee of one shilling for each inspection.

Copy of calendar to be furnished.

222. Where the whole personal estate of an intestate dying domiciled in Scotland shall not exceed *three hundred pounds*, his widow, or any one or more of his children, or, in the case of any
 25 intestate widow, any one or more of the children, may apply to the sheriff-clerk or commissary clerk of the jurisdiction within which the intestate was domiciled, and such clerk shall prepare and fill up an inventory and relative oath as nearly as may be in the form of Schedule Fr., and shall take the applicant's oath; and
 30 on caution being found, according to usual practice, the clerk shall record such inventory and expedite confirmation, and shall deliver the same to the applicant for the fee of *five shillings* for the first twenty pounds in value, and *one shilling* for every ten pounds of value beyond the said twenty pounds, and no other fees shall be
 35 claimable in respect of such small estates; provided always, that where the value of the estate exceeds *one hundred pounds*, the inventory shall be duly stamped before being recorded.

Special rules for small intestate estates.

223. In the case of such small estates, the clerk may require such evidence of identity and relationship as he may think proper;
 40 and if satisfied the estate is really of greater value than three hundred pounds, he may refuse to act, in terms of this and the preceding sections.

Power to enquire and to refuse special privileges to small intestate estates.

A.D. 1889.

Special privileges to small testate estates.

224. Where the whole personal estate of a person dying testate and domiciled in Scotland shall not exceed three hundred pounds, the executor may apply to the commissary clerk of the county within which such testate died domiciled; and on production of the will or writing of the testate containing the nomination of an executor, he shall prepare and fill up an inventory and relative oath as nearly as may be in the form of Schedule Fr., and shall record such inventory and expedite confirmation without caution, and for the same fee as in intestate estates, and the procedure and rules applicable to small intestate estates as nearly as may be shall 10 be followed out in such small testate estates.

XIII.—MISCELLANEOUS.

(a.) *The Poor's Roll.*

Procedure necessary for appointment annually of agents for the poor.

225. To enable persons in humble circumstances who are unable to employ law agents to sue and defend actions, there shall be 15 appointed once a year, in the month of May, two or more enrolled law agents (the number being previously fixed by the sheriff-principal), who shall be nominated at a meeting of the enrolled law agents of the county or district, called after eight days' notice made in two or more local newspapers, and by notice duly published 20 at the sheriff-clerk's office, and at such meeting the enrolled law agents shall recommend from the agents acting and enrolled such of their number to act as agents for the poor; and having reported through the sheriff-clerk the nominations made, the sheriff, if the same are approved of by him, shall duly appoint the said agents to 25 act as agents for the poor in civil causes, provided always that the sheriff shall have power to appoint other agents to act, or, if the law agents fail to nominate any of their number, it shall be competent, on such failure, for the sheriff to appoint such agents as he may select to act as such agents for the poor. 30

Special remuneration of agents for the poor.

226. On such appointment being made, and that not later than fifteenth June in each year, the agents for the poor shall be entitled to demand, and the parochial boards of the county or district shall be bound to contribute, a sum for the payment of such agents for the poor, the amount contributed and demandable 35 by each such agent from such boards and combined board in no case to exceed in cumulo for the year the sum of fifty pounds, provided always that if the parochial boards of the county or district shall fail to arrange the principle of payment or contribution inter se, the board of supervision shall, in the event of such 40 failure, contribute the cumulo sum above set forth, and to recover

from each board of the county or district in such proportion as the . A.D. 1889.
said board of supervision may fix and determine.

227. An application to the benefit of the poor's roll shall be made by petition, along with a certificate signed by a clergyman, 5 justice of the peace, or two householders whose rated house rent shall in each case exceed *twelve pounds* sterling, which certificate shall bear their statement of the circumstances of the applicant. The petition shall be remitted by the sheriff to the agents for the poor, who shall intimate the same to the other party proposed to 10 be sued, and after due inquiry and hearing parties and citing witnesses if necessary, the agents shall report to the sheriff whether the petitioner has a *probabilis causa litigandi*.

Procedure
for admission
to poor's roll.

On considering the report of the agents for the poor, the sheriff shall admit or refuse the application for admission to the poor's 15 roll, and if admitted the pauper shall be entitled to the gratuitous services of the agent or agents for the poor, who shall thereafter conduct the cause on behalf of the pauper or petitioner, provided always that the agent shall not be responsible for any outlays or charges, and that the sheriff-clerk shall be accountable for the fees 20 of the shorthand writer, if such be employed in recording the evidence. In all actions whether on the poor roll or otherwise, agents shall not be personally responsible for any fees or outlays of witnesses whether cited by such agents or otherwise, nor for any fees to sheriff-clerks.

On admis-
sion to roll
services of
agents
obtained.

25 (b.) *Non-certificated Persons practising in Sheriff Court proceedings.*

228. No person other than an enrolled law agent shall be entitled to institute on behalf of another or to conduct any action, petition, or other proceedings in the sheriff's ordinary, summary, or small- 30 debt court; and if any unauthorised person shall sign or present any petition or other application, or in any way appear to conduct any process, application, proof, or other procedure before the sheriff, he shall be liable to summary prosecution before the sheriff, and that at the instance of any enrolled law agent, or *ex proprio* 35 *motu* by the sheriff before whom he shall appear or attempt to contravene this section, punishable by a fine of *five pounds* for each offence, recoverable by imprisonment for a period not exceeding *thirty days*.

Prohibition
against any
party other
than law
agent con-
ducting
cases.

229. If any person other than an enrolled law agent shall 40 publicly advertise or represent to the public in any way that he is qualified to act or practise, or advise on any legal process or

Penalty for
unautho-
rised parties
representing
that they

A.D. 1889.
can act and
advise as
law agents.

procedure, or shall in any way represent that he is entitled to act as a legal adviser, he shall be liable to summary prosecution before the sheriff, and that at the instance of any enrolled law agent, punishable by fine of *five pounds* for each offence, recoverable on default by imprisonment for a period not exceeding *thirty days*. 5

(c.) *Sheriff-Clerk's Fees.*

Sheriff-
clerk's fees.

230. The fees chargeable by the sheriff-clerk for warrants, procedure, and official business, whether in the ordinary sheriff court, small-debt court, and for executry and confirmation work shall be those detailed in Schedule G^a., hereto annexed. 10

Court of
session to
frame Acts
of Sederunt.

231. The court of session may by Act of Sederunt make such regulations as shall be necessary for carrying into effect the purposes of this Act, for regulating any procedure under it, for regulating the fees of court and of the agents and shorthand writers in such proceedings, and generally for altering and amending 15 the course of proceedings herein-before prescribed in respect to which this Act relates, and for supplying any deficiencies or omissions therein, the court having power to take the assistance of any three sheriffs or sheriffs-substitute in the preparation of such Acts of Sederunt ; provided always, that such Act of Sederunt shall 20 only come into operation after the same shall have been laid before the House of Commons for thirty days, and provided always that any resolution of the House of Commons may alter or repeal the whole or part of such Act of Sederunt, on resolution to that effect made and passed. 25

SCHEDULES.

A.D. 1889.

SCHEDULE A.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
5 20 Geo. 2. c. 43, in part.	An Act for taking away and abolishing the Heretable Jurisdiction in that part of Great Britain called Scotland, &c., namely.	Sections four, five, fourteen, twenty-nine.
10 21 Geo. 2. c. 19, in part.	An Act for the more effectual trial and punishment of High Treason and Misprision of High Treason in the Highlands of Scotland, &c.	Sections ten, eleven, twelve.
15 54 Geo. 3. c. 67, in part.	An Act to allow viva voce verdicts to be returned in the High Court and Circuit Courts of Justiciary of Scotland in certain causes, &c.	Section five.
20 3 Geo. 4. c. 49. -	An Act concerning the residence of Sheriffs-Depute of the Counties of Edinburgh and Lanark.	The whole Act.
25 4 Geo. 4. c. 97, in part.	An Act for the regulation of the Court of the Commissaries of Edinburgh, and for altering and regulating the jurisdiction of Inferior Commissaries in Scotland.	Sections seven, eight, nine, ten, thirteen, fourteen, fifteen, and twenty-three.
30 4 Geo. 4. c. 98. -	An Act for the better granting of Confirmations in Scotland.	The whole Act.
6 Geo. 4. c. 23. -	An Act for the better regulation of the Sheriff and Stewart and Burgh Courts of Scotland.	The whole Act.
35 9 Geo. 4. c. 29. -	An Act to authorise additional Circuit Courts of Justiciary to be held, &c.	Section twenty-two

48 *Sheriff Courts Consolidation Civil Code (Scotland).* [52 VICT.]

A.D. 1889.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
11 Geo. 4. & 1 Will. 4. c. 69, in part.	An Act for uniting the benefits of Jury Trial in Civil Causes with the ordinary jurisdiction of the Court of Session.	Section twenty-one, latter part of clause from the words, "Provided always that all such causes not exceeding the value of twenty-five pounds sterling;" also sections twenty-two, twenty-three, twenty-four, twenty-seven, twenty-nine, and thirty-two. 5 10
7 Will. 4. & 1 Vict. c. 39.	An Act to interpret the word Sheriff, &c.	The whole Act.
7 Will. 4. & 1 Vict. c. 41.	An Act for the more effectual recovery of Small Debts in the Sheriff Courts, &c.	The whole Act. 15
1 & 2 Vict. c. 114, in part.	An Act to amend the law of Scotland in matters relating to Personal Diligence, Arrestments, and POUNDINGS.	Sections nine, ten, eleven, twelve, part of section thirteen, viz., the words "or in the Court of the Sheriff within whose jurisdiction the debtor or obligant is, or his movables are, . . . or of the said Sheriff, . . . or the Sheriff-Clerk, . . . or concurring Sheriff." Also sections fifteen, nineteen, twenty-one, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one. 20 25 30
1 & 2 Vict. c. 119. -	An Act to regulate the constitution, jurisdiction, and forms of process of Sheriff Courts in Scotland.	The whole Act. 35
8 & 9 Vict. c. 39. -	An Act to amend the law of Arrestment of Wages in Scotland.	The whole Act. 40
16 & 17 Vict. c. 80. -	An Act to facilitate procedure in the Sheriffs' Courts in Scotland.	Sections one to thirty-two inclusive; sections thirty-seven to fifty-two, inclusive. 45
16 & 17 Vict. c. 92. -	An Act to diminish the number of Sheriffs in Scotland, &c.	
27 & 28 Vict. c. 106. -	An Act to authorise the Lords Commissioners of the Treasury to make provision in regard to the Salaries of certain Sheriffs-Substitute in Scotland.	The whole Act. 50

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			A.D. 1889.
Session and Chapter.	Title or Short Title.	Extent of Repeal.	
30 & 31 Vict. c. 96. -	An Act to facilitate the recovery of certain Debts in the Sheriff Courts in Scotland.	The whole Act.	
5 31 & 32 Vict. c. 100. -	An Act to amend the procedure in the Court of Session and the judicial arrangements in the Supreme Courts of Scotland, and to make certain changes in the other Courts thereof.	Sections sixty - five to seventy-four, both inclusive.	
10 33 & 34 Vict. c. 63. -	The Wages Arrestment Limitation (Scotland) Act, 1870.	The whole Act.	
15 33 & 34 Vict. c. 86. -	An Act to amend and extend the Act 16 & 17 Vict. c. 92, &c.	The whole Act.	
34 & 35 Vict. c. 42. -	An Act to amend the process of Citation in Scotland.	The whole Act.	
20 37 & 38 Vict. c. 64. -	An Act to further alter and amend the law of Evidence in Scotland, and to provide for the recording, by means of Shorthand, of evidence in Civil Causes in Sheriff Courts in Scotland.	Sections four and five.	
25 38 & 39 Vict. c. 41. -	An Act for the relief of Widows and Children of Intestates in Scotland, where the estate is of small value.	The whole Act.	
30 38 & 39 Vict. c. 81. -	An Act to authorise the payment out of the Consolidated Fund of the United Kingdom of the salary of an additional Sheriff-Substitute in Scotland, and for other purposes.	Sections one and two.	
35 39 & 40 Vict. c. 24. -	An Act for the relief of the Executors of Testates in Scotland, where the personal estate is of small value.	The whole Act.	
40 39 & 40 Vict. c. 70. -	An Act to alter and amend the law relating to the Administration of Justice in Civil Causes in the Ordinary Sheriff Courts in Scotland, and for other purposes relating thereto.	The whole Act.	
45 40 & 41 Vict. c. 40. -	An Act to amend the Form of Warrant of Execution on certain Extracts of Writs registered in the Books of Council and Session and Sheriff Court Books in Scotland, &c.	Sections two and three.	
50			

50 *Sheriff Courts Consolidation Civil Code (Scotland). [52 VICT.]*

A.D. 1889.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
40 & 41 Vict. c. 50. -	An Act to amend the law in regard to the appointment of Sheriffs-Substitute and Procurators-Fiscal in Scotland, to extend the jurisdiction of, &c.	The whole Act. 5
43 & 44 Vict. c. 4. -	An Act to provide for the appointment of Judicial Factors in Scotland.	The whole Act. 10
45 & 46 Vict. c. 77. -	An Act to amend the law of Citation in Scotland.	The whole Act, so far as the same regulates the service of citations on Sheriff Court, Ordinary, or Small Debt warrants—the Act <i>quoad</i> Court of Session warrants remaining in full operation. 15

SCHEDULE B.

COMBINATION OF SHERIFFDOMS.	20
1. Caithness, Orkney, and Shetland.	
2. Ross, Cromarty, and Sutherland.	
3. Inverness.	
4. Banff, Nairn, and Moray.	
5. Aberdeen and Kincardine.	25
6. Forfar.	
7. Perth and Clackmannan.	
8. Fife and Kinross.	
9. Stirling and Dumbarton.	
10. Argyll.	30
11. Ayr.	
12. Renfrew and Bute.	
13. Lanark.	
14. Edinburgh, Haddington, Linlithgow, and Peebles.	
15. Berwick, Roxburgh, and Selkirk.	35
16. Dumfries, Kirkcudbright, and Wigtown.	

SCHEDULE C.

A.D. 1889.

	1. Shetland	-	-	-	Lerwick.
	2. Orkney	-	-	-	Kirkwall.
	3. Caithness	-	-	-	Wick.
5	4. Lewis and Harris	-	-	-	Stornoway.
	5. Ross and Cromarty	-	-	-	Dingwall and Tain.
	6. Inverness	-	-	-	{ Inverness. Portree.
	7. Elgin	-	-	-	Nairn.
10	8. Banff	-	-	-	Banff.
	9. Aberdeen	-	-	-	Aberdeen and Peterhead.
	10. Forfar	-	-	-	{ Forfar. Dundee.
	11. Perth	-	-	-	Perth.
15	12. Stirling (including district of Perthshire).		Dunblane	}	Stirling and Dunblane.
	13. Do. (including Linlithgow)	-	-	-	Falkirk and Linlithgow.
	14. Fifeshire	-	-	-	Cupar and Dunfermline.
20	15. Argyllshire	-	-	-	{ Inveraray with occasional court at Oban and Duncan.
	16. Ayr	-	-	-	{ Ayr. Kilmarnock.
	17. Renfrew and Bute	-	-	-	{ Greenock. Paisley.
25				-	Rothsay.
	18. Lanarkshire	-	-	-	{ Glasgow. Airdrie. Hamilton.
	19. Edinburgh	-	-	-	Edinburgh.
30	20. Roxburgh	-	-	-	Jedburgh.
	21. Selkirk	-	-	-	Selkirk
	22. Berwick	-	-	-	Duns.
	23. Dumfries	-	-	-	Dumfries.
	24. Kirkcudbright	-	-	-	Kirkcudbright and Court at Wigtown.
35	25. Dumbarton	-	-	-	Dumbarton.

A.D. 1889

SCHEDULE D.

SITTINGS OF SMALL-DEBT COURTS AND CIRCUIT COURTS.

The first column denotes the leading county towns in which regular sittings of the small-debt court are held; the second column, with the figures opposite each place, indicate the places and number of sittings to be held per annum of 5 circuit small-debt courts.

Aberdeen, Banff, and Kincardine—

Aberdeen	-	-	Huntly	-	-	4	
Peterhead	-	-	Turriff	-	-	4	
			Fraserburgh	-	-	12	10
Banff	-	-	Buckie	-	-	4	
Keith	-	-	Dufftown	-	-	4	
Stonehaven	-	-	Banchory	-	-	3	
			Laurencekirk	-	-	3	

Argyll and Dumbarton—

Inveraray	-	-	Tobermory	-	-	4	
Oban	-	-	Lochgilphead	-	-	4	
Campbeltown	-	-	Dunoon	-	-	8	
			Bowmore, Islay	-	-	4	
Dumbarton	-	-	Kirkintilloch	-	-	6	20

Ayr and Bute—

Ayr	-	-	Irvine	-	-	6	
Kilmarnock	-	-	Beith	-	-	6	
			Girvan	-	-	4	
Rothesay	-	-	Millport	-	-	4	25
			Brodict	-	-	4	

Berwick, Roxburgh, Peebles, and Selkirk—

Duns	-	-	Greenlaw	-	-	7	
			Coldstream	-	-	4	
			Lauder	-	-	4	30
Jedburgh	-	-	Kelso	-	-	8	
			Hawick	-	-	8	
			Melrose	-	-	4	
Selkirk	-	-	Galashiels	-	-	8	
Peebles	-	-	Innerleithen	-	-	6	35

Caithness, Orkney, and Shetland—

Wick	-	-	Lybster	-	-	6	
Thurso	-	-					
Lerwick	-	-	No circuit court.				
Kirkwall	-	-	St. Margaret's Hope	-	-	3	40

Cromarty, Ross, and Sutherland—

A.D. 1889.

	Cromarty	-	-	No circuit court.		
	Dingwall	-	-	Invergordon.		
5	Stornoway	-	-	Fortrose.		
	Tain	-	-	Ullapool.		
				Jeantown.		
	Dornoch	-	-	Tongue	-	3
				Helmsdale	-	3
				Melvich	-	3

10 *Renfrew—*

	Paisley	-	-			
	Greenock	-	-	Lochwinnoch	-	4
	Pollokshaws	-	-	Kinning Park	-	6

Dumfries, Kirkcudbright, and Wigtown—

15	Dumfries	-	-	Moffat	-	4
	Annan	-	-	Lockerbie	-	4
				Sanquhar	-	4
	Kirkcudbright	-	-	Castle Douglas	-	4
20				New Galloway	-	4
				Creetown	-	4
	Wigtown	-	-	New Stewart	-	3
	Stranraer	-	-	Whithorn	-	3

Edinburgh, Haddington, and Linlithgow—

25	Edinburgh	-	-			
	Leith	-	-	(No circuits.)		
	Haddington	-	-	North Berwick	-	6
				Tranent	-	4
				Dunbar	-	4
	Linlithgow	-	-	Bathgate	-	6

30 *Fife, Kinross, and Forfar—*

	Cupar	-	-	St. Andrews	-	4
	Dunfermline	-	-	Anstruther	-	4
	Kirkcaldy	-	-	Newburgh	-	4
				Leven	-	4
35	Kinross.					
	Forfar	-	-	Montrose	-	6
	Dundee	-	-	Arbroath	-	6
				Kirriemuir	-	6
				Brechin	-	6

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A.D. 1889. *Inverness, Elgin, and Nairn—*

Inverness	-	-	Beaully	-	-	3	
Fort William	-	-	Grantown	-	-	3	
Portree	-	-	Kingussie	-	-	3	
			South Uist	-	-	2	5
			Forres	-	-	6	
Elgin	-	-	Rothies	-	-	4	
			Fochabers	-	-	4	
			Grantown	-	-	4	
Nairn	-	-	No circuit.				10
<i>Perth, Stirling, and Clackmannan—</i>							
Perth	-	-	lairgowrie	-	-	4	
Dunblane	-	-	Cupar-Angus	-	-	4	
Stirling	-	-	Crieff	-	-	4	
Falkirk	-	-	Aberfeldy	-	-	4	15
Alloa	-	-	Auchterarder	-	-	4	
			Kincardine	-	-	4	
			Lennoxtown	-	-	4	
<i>Lanarkshire—</i>							
Glasgow	-	-	Wishaw	-	-	6	20
Hamilton	-	-	Biggar	-	-	4	
Airdrie.							
Lanark.							

SCHEDULE E.

In the Sheriff Court of L , at *G* . 25

A.B. [design him], Pursuer,
against

C.D. [design him], Defender.

(NOTE.—Where any party sues in any special character, as trustee or otherwise, state what it is.) 30

The above-named pursuer submits to the court the condescendence and note of pleas in law hereto annexed, and prays the court—

- (a.) To grant a decree against the defender, ordaining him to pay to the pursuer the sum of sterling.
- (b.) To sequestrate, &c., and grant warrant to sell [*specify rent due and 35 current, and the subjects in respect of which rent is payable*], and to find the pursuer entitled to expenses, and grant warrant of sale therefor.
- (c.) To ordain the defender—
 - (1.) To deliver to the pursuer, &c.;
 - (2.) Or forthwith to repair, &c.; and failing his doing so within 40 days, to authorise such repairs to be made at the sight of a person to

be appointed, and to ordain the defender to pay the expenses thereby incurred. A.D. 1889.

(d.) To grant warrant to sell, &c., &c.

(e.) To interdict the defender from, &c., &c., and to grant interim interdict.

(f.) To ordain the defender (C.D.) to pay to the pursuer l., arrested by him in (C.D.'s) hands, as due to E.F., in satisfaction of the sums due by E.F. to the pursuer, conform to, &c., &c.

(g.) To ordain the defender to produce a full account of his intromissions, as [here state character in which defender is accountable, as factor, or otherwise], and to pay to the pursuer the sum of l., or such other sum as may appear to be the true balance due by him, and failing his producing such account, to ordain the defender to pay

(h.) To find that he is holder of l. [or state the nature of the fund or subject in medio], which is claimed by the defenders, and that he is only liable in once and single payment (or delivery) thereof, and is entitled on payment [and delivery or consignment], to be exonerated thereof, and to ordain payment of his expenses; and that decree should issue in favour of the party or parties who shall be found to have best right to the fund [or subject] in medio. The real raiser hereof is

CONDESCENDENCE.

[State articulately the facts forming the grounds of action.]

NOTE OF PLEAS IN LAW.

[State them articulately]

25 [To be signed thus]:—

H M ,
45, West Glasgow Street,
Perth, Agent.

SCHEDULE F.

WARRANT OF SERVICE ON THE PETITION.

30 [Place and date]

The sheriff of the county of grants warrant to cite the defender on days' induciæ, by serving him with a copy of the foregoing petition and of this deliverance, and ordains him, if he intends to show cause why the prayer of the petition should not be granted, to lodge in the hands of the clerk of court at a notice of appearance within the foresaid days, under certification of being held as confessed [and grants warrant to arrest on the dependence], [meantime grants interdict as craved], [meantime sequestrates and grants warrant to officers of court to inventory and secure as craved], or as the case may be.

A.D. 1889.

SCHEDULE G.

CERTIFICATE OF POSTING PETITION.

This petition intimated by me [name], messenger-at-arms [or other officer or law agent], against C.D., defender, by posting on the _____ day of _____, 188____, between the hours of _____ and _____, 5 at the post office of _____, a copy of the same, with citation subjoined, in a registered letter addressed as follows:—

[Here insert name and address.]

Signature of officer or agent.

SCHEDULE H.

10

EXECUTION BY AN OFFICER OF SERVICE OF PETITION.

This petition and deliverance served by me, J.B., sheriff-officer, upon J.J., defender, by leaving for him a copy of the same, with citation subjoined, in the hands of a servant within his dwelling-place in B _____ Street, Glasgow; because I could not find himself personally. This _____ day of _____, 15 188____ years.

J.B., Sheriff Officer.

SCHEDULE I.

NOTICE OF APPEARANCE.

In the Sheriff Court of _____ shire at _____

20

In the action
A.B. [design him],
against
C.D. [design him].

C.D., defender, enters appearance to said action.

25

*C.D., Defender, or
E.F., Agent for Defender.*

SCHEDULE J.

A.D. 1889.

NOTICE TO REMOVE.

[*Address of Tenant
and Designation.*]

[*Place and date.*]

5 You are required to remove from the farm of [*name by which it is usually known*], at the term of next as to the houses and grass; and at the separation of the crop from the ground as to the arable land [*or, as the case may be*], in terms of the lease thereof [*or, in terms of your letter of removal*], dated

10

[*Signed by Sheriff Officer.*]

SCHEDULE K.

LETTER OF REMOVAL.

[*Place and date.*]

15 Sir,—I am to remove from the farm of [*insert name by which usually known*] at the term of , 188 , as to the houses and grass, and at the separation of the crop from the ground as to the arable land [*or, as the case may be*].

Your obedient servant,
[*Signed, and holograph of tenant.*]

20

To A.B.
[*Designation of landlord.*]

SCHEDULE L.

FORM OF SUMMARY PETITIONS FOR REMOVAL FROM SUBJECTS
UNDER 50*l.* OF RENT.

25

In the Sheriff Court of Lanarkshire at Glasgow.

A.B. [*design him*], pursuer.

C.D. [*design him*], defender.

30 The above-named pursuer prays that C.D. be ordained to remove from the dwelling-house, No. 25, Berber Street, Glasgow, [*or other subjects as the case may be*], which were let to the defender for the period from Whitsunday 1884 to Whitsunday 1885, at the rent of 30*l.* per annum, in respect he is in arrear of rent to the extent of 20*l.*, or [*as the case may be*], in respect his term of tenancy has expired. And further, that he be found liable in expenses.

[*Signature of Party or Law Agent.*]

A.D. 1889.

SCHEDULE M/1.

**FORM OF WARRANT OF SERVICE ON SUMMARY PETITION FOR
REMOVAL.**

The sheriff of the county of grants warrant
to cite the defender, and ordains him, if he intends to show cause why the 5
prayer of the petition should not be granted, to appear personally before him
at the sheriff's chambers [or other place or court], on the day of
, at o'clock. And grants warrant to cite
witnesses for both parties.

[To be signed by the Sheriff-Clerk.] 10

SCHEDULE M/2.

DECREE OF REMOVAL.

At , the day of 188 .
The sheriff [in absence of defender, or having heard parties, as the case may be],
decerns and grants warrant for removing the said C.D., defender, and others, 15
from the subjects specified in the petition, and that not sooner than [date],
[here insert time appointed for removal, and whether, after a charge on such
inducia as may be deemed proper, or instantly] finds the defender liable in
expenses [or otherwise, as the case may be], and decerns.

[Sheriff's signature.] 20

SCHEDULE N.

EXTRACT DECREE IN ORDINARY ACTION.

Sheriff Court of L , at *G*

In the action
A.B. [designation], Pursuer, 25
against
C.D. [designation], Defender.

The sheriff of this date [insert date] found the defender [in absence] or where
appearance has been entered [after appearance had been made by him] liable to
pay to the pursuer the sum of l. of principal, with interest thereon from 30
the day of till payment, at the rate of five per
centum per annum, and also the sum of of expenses. And warrant
is now granted that arrestment, poinding, and all legal execution hereon, the
defender being required to make payment of the foresaid sums to the pursuer
within seven days of the date of the charge hereon served on the defender by 35
an officer of court.

Given at *G* , this day of 1885.

G.S.,
Sheriff-Clerk of L

SCHEDULE O.

A.D. 1889,

MINUTE BY ASSIGNEE TO DECREE OF CONCURRENCE.

G , day of , 188 .

Warrant is craved [*state what is prayed for*] at the instance of [*name and designation of the assignee*], conform to [*say assignation or confirmation or other title*], produced herewith.

In the case of concurrence, the form will be varied thus :—

“ Warrant of concurrence by the sheriff of L. is craved at the instance of [*name and designation of the applicant*], for executing the above
10 “ against the within designed [*specify name of debtor or obligant*].”

A.B.

[*To be signed by the applicant or his agent.*]

SCHEDULE P.

WARRANT OF EXECUTION ON REGISTERED DEED OR PROTEST.

15 At E , the day of , 188 , the deed [*or protest*] herein-after engrossed was presented for registration in the sheriff court books of the county of , for preservation [*or preservation and execution*], and is registered in the said books as follows :—
[*Insert full copy of the deed, protest, or other document, and, where it is*
20 *registered for execution, insert warrant for execution, as follows:*—]—And the sheriff grants warrant for all lawful execution hereon. Extracted, &c.

Note.—This is the form annexed to the Registered Writs Execution (Scotland) Act, 1877.

SCHEDULE Q.

25 SMALL-DEBT PETITION.

In the Sheriff-Court of Lanarkshire, at Glasgow.

A.B. [*design him*], Pursuer,

against

C.D. [*design him*], Defender.

30 The above-named pursuer craves that the court ordains the defender to appear in the court-house at Street, Glasgow, upon the day of 188 , at ten o'clock forenoon, and that judgment be then given :—

(a.) Granting decree against the above-named defender for the sum of
35 l. sterling, in respect of (1) goods sold and delivered per account annexed, or (2) loss and damage sustained by pursuer through the
[154.]

H 2

60 *Sheriff Courts Consolidation Civil Code (Scotland).* [52 VICT.]

A.D. 1889.

defender's failure to deliver the goods or articles detailed in account annexed, or (3) any other general statement of claim or debt bearing a reference to an account appended.

- (b.) Meantime sequestrate and grant warrant to inventory and secure the effects situated in premises No. Street, in payment (or in security) 5 of the sum of £, being rent due at 188 , and payable to pursuer, and to find pursuer entitled to expenses, and grant warrant of sale.
- (c.) Ordaining the said C.D., defender, to pay to the pursuer £, arrested by him in defender's hands as due to E.F., in fulfilment of the 10 liability of E.F. to the pursuer, conform to [&c., &c., here explain the ground of debt or decree held by pursuer against the common debtor, E.F.]
- (d.) Finding that he is a holder of £ [state the nature of the fund or subject in medio], which is claimed by the defender, and that he is only 15 liable in single payment or delivery thereof, and is entitled on payment or delivery or consignment to be discharged thereof, and to payment of his expenses, and that decree should issue in favour of the party or parties found to have the best right to the fund or subject in medio. The real raiser hereof is G.H. 20

Given under the hand of the clerk of court, at Glasgow, the
day of 188 .

[Signature of Sheriff-Clerk.]

EXECUTION OF SERVICE OF FOREGOING BY POST.

This petition, executed by me against defender, by 25
posting, on [date], between the hours of and , at the
post office, a copy of the same to , with
citation subjoined, in a registered letter addressed as follows, viz. :—

[Signature of Agent or Sheriff-Officer.]

EXECUTION OF CITATION OF FOREGOING BY SHERIFF-OFFICER. 30

This petition, executed by me , against defender, by
delivery, on the day of 188 years, to him personally
[or to a servant at his dwelling-house,], of a copy of the same to
 , with citation subjoined.

[Signature of Sheriff-Officer.] 35

CITATION FOR DEFENDER ON FOREGOING PETITION.

E.F., defender, you are hereby summoned to appear before the sheriff, at the sheriff small-debt court, Thomson Street, B , to answer to the foregoing petition.

This citation, served the day of 188 , by me. 40
 [Signature of Sheriff-Officer.]

SCHEDULE R/1.

A.D. 1889.

EXECUTION OF ARRESTMENT ON DEPENDENCE OF SMALL-DEBT
PETITION.

Upon the day of , 188 , betwixt the hours of
5 and , in virtue of the foregoing petition, I
arrested in the hands of *C.D.* [*design him*], all sums of money owing by him to
the defender, *G.H.* [*design him*], or other person for his behoof, and all goods
and effects in his custody belonging to the defender, to an amount not exceeding
 l., to remain under arrest until consignation be made or caution found.
10 This done by leaving a copy arrestment with [*C.D.*]
 Subscribed by me.

[*Signature of Sheriff-Officer.*]

SCHEDULE R/2.

EXECUTION OF NOTICE OF COUNTER-CLAIM IN A SMALL-DEBT
15 ACTION.

Upon the day of 188 , I gave notice to *C.D.*,
pursuer, of the above counter-claim intended to be set up against him by *E.F.*,
defender, in the small-debt action to which the defender was summoned to
appear before the sheriff at , upon the day of ,
20 188 .
 This notice served the day of 188
 by me.

[*Signature of Sheriff-Officer.*]

SCHEDULE S.

25 SMALL-DEBT DECREE.

At Glasgow, the day of 188 . Finds the
within designed *A.B.*, defender, liable to the pursuer in the sum of *l.*,
with of expenses; and decerns execution by arrestment, and also there-
after by poinding and sale after a charge [*or lapse, as the case may be*] of seven
30 free days.

[*Signature of Sheriff-Clerk.*]

A.D. 1889,

SCHEDULE T.**DECREE OF ABSOLVITOR.**

At Glasgow, the day of 188 . Assoilzies and discharges the within designed [], defender, from the within petition, with of expenses, for which pursuer is held liable; and 5 decerns execution by arrestment, and thereafter by poinding and sale, after a lapse [or charge] of seven free days.

[Signature of Sheriff-Clerk.]

SCHEDULE U.**FORM OF CLAIM IN SMALL-DEBT MULTIPLEPOINDING.**

10

I, *A.B.* [design him], claim to be preferred on the fund or subject in the multiplepoinding at the instance of [name and design the raiser of the action] against [name and design the defenders] in respect of l., the sum of principal due to me [here state generally the ground of debt, such as a decree, an account, *I.O.U.*, or such like], with interest from and expenses. 15

[Signature of Claimant.]

SCHEDULE V.

**REPORT OF SMALL-DEBT SEQUESTRATION OR POINDING AND SALE,
TO BE VARIED ACCORDING TO CIRCUMSTANCES.**

Report of the sequestration [or poinding and sale] at the instance of *C.D.* 20
[design him] against *E.F.* [design him]:—

Lots.	Effects.	Appraised at.	Sold at.	
		£ s. d.	£ s. d.	
1	An eight-day clock - - -	2 0 0	1 10 0	25
2	Six chairs - - - - -	1 10 0	2 0 0	
3	One table - - - - -	0 8 0	0 15 0	
4	Chest of drawers - - -	1 12 0	1 15 0	
	£			

Upon the day of 188 , between the hours of and , by virtue of a decree of the sheriff of , given under 30 the warrant of the clerk of court at , on the day of 188 , at the instance of *C.D.* above designed, against *E.F.* above designed for the sum of l., I, with the witnesses and appraisers after-named and designed, passed to , and then after requiring payment of the sum

due under said decree, which was not made, I pointed the effects above
 numerated belonging to the debtor; and after an inventory and appraisment
 was made, as shown in the schedule above set forth, and leaving a copy of
 said schedule with the debtor, I carried the effects to _____, and there
 5 betwixt _____ and _____, and after public notice of at least
 hours, I sold the effects by public roup to the highest bidder at the prices set
 forth in the last column of said schedule, amounting in all to _____,
 These things were so done before O.P. and Q.R. [*design them*], witnesses and
 appraisers hereto subscribing.

A.D. 1889.

10

O.P., *Witness and Appraiser.*

Q.R., *Do.*

Reported to the Sheriff-Clerk at _____,
 _____, 188 _____, by

_____, this _____ day of

J.F., Sheriff-Officer.

15

SCHEDULE W.

BOND OF CAUTION FOR LOOSING ARRESTMENT.

At _____, on the _____ day of _____ 188 _____, compeared
 A.B. [*design him*], who now judicially obliges himself, his heirs, and successors,
 as cautioners for E.F. [*design him*], common debtor, against whom arrestment
 20 was used at the instance of C.D. [*design him*], in the hands of K.L. [*design*
 him], on the _____ day of _____, in virtue of a petition dated the
 _____ day of _____ 188 _____, that the sums, goods, and effects alleged
 to be arrested as aforesaid shall be made furthcoming.

[*Signature of Granter of Bond.*]

25

SCHEDULE X.

CERTIFICATE BY SHERIFF-CLERK OF LOOSING OF ARRESTMENT.

Whereas E.F. [*design him*] has made sufficient consignation [*or, if caution*
found, has found sufficient caution] by G.H. [*design him*], warrant for losing
 the arrestment on the petition of A.B. [*design him*] against C.D. [*design him*],
 30 is now hereby granted.

Given this _____ day of _____ 188 _____, by me.

[*Signature of Sheriff-Clerk or his Depute.*]

SCHEDULE AA.

A.D. 1889.

PETITION FOR CONFIRMATION OF EXECUTOR.

In the Sheriff Court of Lanarkshire at Glasgow.

A.B. [*design him*], Petitioner.

- 5 The above-named Petitioner craves that the Court shall ordain him.
 Executor-dative qua next-of-kin to E.B., in terms of
 the Condescence annexed.
 [Signature of Petitioner or Agent.]

CONDESCENCE.

- 10 1. The late C.D. [*designation*] died at E on or about the
 day of 188 , and had at the time of his death his ordinary or
 principal domicile in the county of .
 2. The petitioner is a son and one of the next-of-kin of the said C.D.,
 and is desirous that he be decerned Executor-Dative qua one of the
 15 next-of-kin.

[Signature of Petitioner or Agent.]

SCHEDULE BB.

TESTAMENT-TESTAMENTAR, OR CONFIRMATION OF AN EXECUTOR-NOMINATE.

- 20 I, A.B., Sheriff of the County of , considering that late C.D.
 died at P upon [*date*] and that by his will [*testament or other deed*]
 dated , and recorded in my Court Books upon [*date*] the said
 C.D. nominated E.F. to be his Executor, and that he has given up an
 Inventory of the personal estate of the said C.D., amounting in value to l.
 25 which Inventory has been recorded in my Court Books of date
 Therefore I approve and confirm the nomination of Executor contained in the
 foresaid will [*or testamentary writing*], with power to him to receive and
 administer said estate, to pursue therefor, and generally do every other thing
 necessary for the discharge of the duties of an Executor-Nominate, provided
 30 always that he shall render just count and reckoning when and where the same
 shall be demanded.

Given under the seal of the Court of , and
 signed at G the day of
 188 .

- 35 [Signature of Sheriff-Clerk or his Depute.]

A.D. 1889.

SCHEDULE Cc.

ROLL OF PETITIONS FOR APPOINTMENT OF EXECUTORS.

County.	Name and Designation of Petitioner.	Title of Petitioner.	Name and Designation of Deceased.	Place and Date of Birth.
Edinburgh.	A.B. Writer in Edinburgh.	Next-of-Kin.	C.D., Merchant in Edinburgh.	No. George Street, Edinburgh, 1st Jan., 1857.

5

SCHEDULE Dd.

10

CERTIFICATE OF PUBLICATION OF PETITION.

I, A.B., Sheriff-Clerk of the County of _____, hereby certify that this petition was intimated on the door of the Court-house, at _____, on [specify date], and was published by the Keeper of the Record of Edictal Citations in the printed roll of appointments of executors in the Commissary Courts of Scotland, printed and published [date].

[A.B.]

SCHEDULE Ee.

TESTAMENT-DATIVE, OR CONFIRMATION OF A PERSON AS EXECUTOR TO A PERSON WHO FAILED TO NOMINATE ONE.

20

I, A.B., Sheriff of the County of L _____, considering that by my decree, dated _____, I decerned C.D. Executor-Dative qua next-of-kin [or in other character] of the late E.F., who died at P _____ on [date] and that the said C.D. has given up an Inventory of the personal estate of the said E.F., amounting in value to _____ pounds, which has been recorded in my Court Books of date _____, and that he has found caution for his acts as Executor. Therefore, I make and confirm the said C.D. Executor-Dative qua [specify character] to the said deceased, with power to him to receive and administer said estate, to pursue therefor, and generally do every other thing necessary for the discharge of the duties of an Executor-Dative, provided always that he shall render just count and reckoning when and where the same shall be demanded.

25

30

Given under the seal of the Court of _____
and signed at G _____, the _____ day of _____
188 .

35

[Signature of Sheriff-Clerk or his Deputa.]

SCHEDULE F.

A.D. 1880.

INVENTORY AND OATH FOR SMALL ESTATES.

Inventory of the Personal Estate, wheresoever situated, of [name and description of deceased], who died at _____ on the _____ day of _____ 188 .

Scotland.

1. Cash in the house, - - - - - £
 2. Household furniture and other effects in the deceased's house - - - - -
 - 10 3. Stock-in-trade and other effects belonging to the deceased - - - - -
 4. Sum in bank, viz. [specify it, with interest, to date of oath to inventory] - - - - -
- £

15 At _____ the _____ day of _____ 188 , in presence of _____ Esquire, Sheriff-Clerk of _____ appeared [name and description of applicant], who, being solemnly sworn, depones, that the said _____ died at _____ upon the _____ day of _____ 188 , and had at the time of his death his ordinary or principal domicile in the county of _____. That the deponent is the [widow, son, or daughter] of the said deceased, and is desirous to enter on the possession of the deceased's estate as his executor. That the deponent does not know of any testamentary writing relative to the deceased's personal estate or any part thereof, and the foresaid inventory, signed by the deponent and the said

20 _____ as relative hereto, is a complete inventory of the personal estate of the said deceased, wherever situated and belonging or due to him at his decease, in so far as known to the deponent. That the value of the said personal estate does not exceed _____ £., and confirmation is required in favour of the deponent. All which is truth.

30 _____ [Signature of deponent.]

Note.—Form of Confirmation in small estates under 300£ to be as nearly as may be in terms of preceding schedule.

A.D. 1889.

SCHEDULE Gg.

TABLE OF FEES PAYABLE TO SHERIFF-CLERKS ON THE ISSUING OF THE FOLLOWING WRITS OR WARRANTS, OR FOR THE UNDERNOTED JUDICIAL PROCEDURE.

Part I.—Ordinary Court Procedure.

	s.	d.	5
Each petition or initial writ by which an action or application is instituted, including the deliverance or warrant thereon - -	1	6	
On lodgment of the notice of appearance or defences, answers or first paper of a defender or compeerer, or set of defenders or compeerers -	1	0	10
On lodgment of each paper or pleading for any party subsequent to the first pleading - - - - -	0	6	
Receiving and marking each set of productions - - - - -	0	6	
On lodgment of each appeal to the Sheriff-Principal - - - - -	0	6	
Each extract of a decree in absence - - - - -	1	6	15
Each extract of a decree in foro - - - - -	2	6	
If the decree, whether in absence or in foro, exceeds one sheet, for writing each subsequent sheet - - - - -	1	0	
Recording extract decrees, per sheet - - - - -	1	0	
Indorsing and dating decrees or warrants - - - - -	1	0	20
Protestation for not insisting - - - - -	0	9	
Extract thereof - - - - -	0	9	
Acts and commissions, per sheet - - - - -	1	0	
Diligence or precept for citing witnesses and havers - - - - -	0	9	
Second diligence - - - - -	0	9	25
Writing each sheet of a commission or proof, when same is taken by the Sheriff-Clerk or his depute, but no fee shall be charged for the time occupied - - - - -	1	0	
Dues of proof taken before the Sheriff-Substitute, to cover all charges in connexion therewith, and in lieu of dues of witnesses and havers, or dues of depositions—			30
In causes under 50 <i>l</i> . - - - - -	3	6	
In causes above 50 <i>l</i> . - - - - -	6	8	
Warrant of sale or other warrant granting authority on a summary application - - - - -	1	0	35
Report of sale and marking the same, and allow inspection thereof -	1	0	
Borrowing a process or part of process, to cover the clerk's trouble in checking it when giving it out and receiving it returned - -	0	6	
Attendance of judicial inspectors or visitations when required by the sheriff or the parties, and for sealing up repositories and executing any warrant or order of the sheriff, each hour other than commissions, besides necessary outlays - - - - -	5	0	40
On caveat lodged - - - - -	0	6	
Precepts or warrants to arrest included in petition - - - - -	0	3	
Precepts or warrants to arrest not included in petition - - -	1	0	45

		s.	d.	A.D. 1889.
	On loosing of an arrestment - - - - -	-	1 0	
	Preparing bond of caution and certificate - - - - -	-	3 6	
	Summons or petition of curatory, or for giving up inventories - - - - -	-	1 6	
5	Calling in court, entering nomination of curators - - - - -	-	2 6	
	Docqueting and signing tutorial or curatorial inventories, per sheet - - - - -	-	1 0	
	Sequestration for rent—			
	Warrant of sequestration and service - - - - -	-	1 6	
	Taking inventory when same done by sheriff-clerk—			
10	Rent under 50 <i>l.</i> - - - - -	-	3 6	
	Rent above 50 <i>l.</i> - - - - -	-	7 6	
	Writing out inventory and schedule, per sheet - - - - -	-	1 0	
	If clerk and witnesses necessarily employed more than two hours in taking inventory or travelling for that purpose, he will be allowed an addition to above fees for every additional hour after first two, clerk and witnesses - - - - -	-	1 6	
15	Warrant of sale - - - - -	-	1 0	
	Extract thereof, per sheet, when required - - - - -	-	1 6	
	Receiving report of sale and marking same - - - - -	-	0 6	
20	Allowing inspection of same - - - - -	-	0 6	
	<i>Note.</i> —In sales under other warrants, including poindings, the same fees as above to be paid.			
	Intimating caption to compel return of process - - - - -	-	0 6	
25	Enrolling a cause on motion, or otherwise, to be paid by party requiring enrolment - - - - -	-	0 6	
	Extract Acts of curatory or upon production of inventories—			
	First sheet - - - - -	-	2 6	
	Every other sheet - - - - -	-	1 6	
	Transmitting processes under appeal to Court of Session - - - - -	-	1 3	
30	Appeal against sheriff's judgment to Court of Session - - - - -	-	1 3	
	Searching for a process after year from last act of procedure—			
	But not exceeding five years - - - - -	-	1 0	
	Each additional year - - - - -	-	0 6	
	On consignment of money in court—			
35	Under 10 <i>l.</i> - - - - -	-	1 6	
	Above 10 <i>l.</i> $\frac{1}{2}$ per cent. on the amount consigned, but not to exceed 10 <i>s.</i>			
	Each warrant to uplift consigned money - - - - -	-	1 6	
	Full extract, or second extract or authenticated copy of a process, or part of process, or other procedure or paper when required by a party and furnished by the clerk - - - - -	-	1 6	
40	Recording protests on bills, including extract - - - - -	-	1 6	
	Subsequent extracts - - - - -	-	1 0	
	Recording accounts, statements, and like, per sheet of figures - - - - -	-	1 6	
45	Extracts thereof, per sheet - - - - -	-	1 6	
	Recording bonds, tacks, or other writings in register of deeds and probative fee writings, per sheet - - - - -	-	1 0	

70 *Sheriff Courts Consolidation Civil Code (Scotland). [52 VICT.]*

A.D. 1889.

	s.	d.
General or special services—		
Procuring brieve, executed and intimated to agent -	1	3
Attending at service, framing and recording minutes -	3	6
Fees of the service - - - - -	10	0 5
Engrossing return - - - - -	2	6
Extracts, when required, per sheet - - - - -	1	0

In the foregoing table of fees a sheet shall mean 250 words.

Part II.—Small Debt Procedure.

To the sheriff-clerk—			10
Summons, including precept of arrestment - - - - -	1	0	
Each service copy - - - - -	0	6	
Entry in procedure book, but not to be charged more than once for each case - - - - -	0	6	
Renewed warrant to arrest and entry in book - - - - -	1	0	15
Certificate loosing arrestment - - - - -	1	0	
Bond of caution - - - - -	1	6	
Second diligence against witnesses and havers - - - - -	1	0	
Decree, including extract - - - - -	1	0	
Hearing after decree in absence - - - - -	1	6	20
Receiving report of sequestration, and appointment and entry in book - - - - -	1	0	
Receiving report of sale, &c. - - - - -	1	0	
Receiving report of poinding and sale and entry in book - - - - -	1	6	
To officer—			25
Citation of a party, or intimation of counter claim and execution of citation, whether personally or on servants, &c., or by registered letter - - - - -	1	0	
Citation of witness or haver—			
For the first - - - - -	1	0	30
Any other - - - - -	0	6	
Charging on decree and execution - - - - -	1	0	
Arrestment and execution - - - - -	1	0	
Intimation of loosing arrestment and execution - - - - -	0	6	
Poinding or sequestration and inventory - - - - -	2	6	35
Sale and report - - - - -	2	6	
Officers' travelling expenses for each complete mile from the court house or usual place of measurement in the town or place where court is held to the place of execution or service; the distance travelled in returning not to be reckoned - - - - -	1	0	40
The above to include assistants' fees.			
Crier's fee in Small Debt Court—			
For calling each cause, payable when summons issued - - - - -	0	1	

Sheriff Courts Consolidation Civil Code (Scotland).

A

B I L L

To combine in one Code the Regulations affecting Sheriff Courts in Scotland, and to extend and amend the Law of Civil Process therein.

*(Prepared and brought in by
Mr. Caldwell, Sir George Trevelyan, and Mr. Philipps.)*

*Ordered, by The House of Commons, to be Printed,
8 March 1889.*

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[Under 9 oz. Price 9d.]

[Bill 154.]

Shops (Weekly Half-holiday) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Short title.
2. Orders by local authority as to hours of closing.
3. Provisions as to making and effect of order.
4. Provision as to amendment and revocation of order.
5. Decision of questions as to classification of shops.
6. Closing of shop where two or more trades carried on.
7. Fine for contravention of Act or order.
8. Provision in case of offence committed by agent or servant.
9. Summary proceedings for enforcement of Act.
10. Saving for chemists.
11. Saving for sales to lodgers.
12. Definitions.
13. Commencement of Act.

SCHEDULE.

A

B I L L

TO

Enable Local Authorities to establish a Weekly Half-holiday A.D. 1889.
for Shops.

WHEREAS the health of many persons employed in shops is seriously injured by reason of the length of the period of employment therein, and it is expedient to provide for the limitation of such period :

5 Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited as the Shopkeepers Half-holiday Act, Short title.
10 1889.

2. If an application is received by the local authority of any district or part of a district as defined in this Act praying that an order may be made requiring all shops within the district or part of a district belonging to any class or classes not mentioned in
15 the schedule to this Act to be closed on one specified day in each week at or before any hour, not earlier than two o'clock in the afternoon, which may be named in the application, and the local authority are satisfied that such application is signed by not less than two thirds in number of the occupiers of shops within the district belonging
20 to the class or to each of the classes to which such application relates, the local authority shall make an order giving effect to the said application.

Orders by local authority as to hours of closing.

3. With respect to an order of a local authority under this Act the following provisions shall have effect ; that is to say,—
25 (1.) Such order shall take effect at a date named therein, being not less than two months after the making thereof, and shall

Provisions as to making and effect of order.

[Bill 144.]

A 2

A.D. 1889.

before that date be published in such manner as to the local authority making the order may appear best fitted to insure publicity for the same, and on and after that date the said order shall have effect as if it were enacted in this Act :

(2.) Such order may be expressed to have effect only during any specified part or parts of the year, and shall have effect accordingly, but, unless so limited, shall have effect throughout the year :

(3.) The central authority may make regulations as to the form of such orders and of applications for the same, and as to the evidence to be produced respecting the proportion of persons signing such applications, and as to the classification of shops for the purposes of this Act; and any such regulations shall be published in such manner as the authority making the same may direct, and shall be duly observed.

Provision as to amendment and revocation of order.

4. (1.) An order of a local authority under this Act may from time to time be amended by a subsequent order made upon the like application, and subject to the like provisions, and having the like effect as if it were an original order.

(2.) If at any time it is made to appear to the satisfaction of the local authority that more than one third in number of the occupiers of shops, to which an order for the time being in force under this Act relates, or of any class of such shops, are opposed to the continuance of such order, the local authority may revoke the said order, or revoke the same in so far as it affects such class of shops as aforesaid, and thereupon such order, in so far as it is so revoked, shall cease to have effect, but the revocation of an order shall be without prejudice to the making of another order under this Act.

Decision of questions as to classification of shops.

5. If any question arises as to the classification of shops or trades for the purposes of this Act, or whether any particular shop or shops is or are included in any class to which any of the provisions of this Act or any application or order under this Act extends, such question may be referred to the central authority, whose decision on such question shall be final.

Closing of shop where two or more trades carried on.

6. A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades at the hour at which it is by this Act or by any order made thereunder required to be closed for the purpose of any of them.

Fine for contravention of Act or order.

7. Where any shop is open after the hour at which it is required by this Act, or by an order made under this Act, to be closed, the occupier of such shop shall be liable to a fine not exceeding *five pounds*.

8. (1.) Where an offence for which the occupier of a shop is liable under this Act to a fine has in fact been committed by some agent or servant of such occupier, such agent or servant shall be liable to the same fine as if he were the occupier.

A.D. 1889.

Provision in case of offence committed by agent or servant.

5 (2.) Where the occupier of a shop is charged with an offence against this Act or any order made thereunder, he shall be entitled upon information duly laid by him to have any agent or servant whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if after the
10 commission of the offence has been proved the court is satisfied that the said agent or servant committed the offence in question without the knowledge, consent, or connivance, or wilful neglect or default of the said occupier, the said occupier shall be exempt from any fine.

9. (1.) All offences against this Act or any order of a local authority made thereunder shall be prosecuted, and all fines under this Act shall be recovered, in like manner as offences and fines are prosecuted and recovered under the Factory and Workshop Act, 1878, and sections eighty-eight, eighty-nine, ninety, and ninety-one of the said Act, and the provisions relating to the application of the said
15 Act to Scotland and Ireland, shall so far as they are applicable have effect as if re-enacted in this Act and in terms made applicable thereto:

Summary proceedings for enforcement of Act. 41 & 42 Vict. c. 16.

Provided that in England or Ireland a prosecution shall not be instituted against any person for an offence against this Act or any
25 order made thereunder except by or with the consent in writing of the chief officer of police having authority in the place where the offence was committed, or with the consent in writing of two justices of the peace, or of a stipendiary magistrate having jurisdiction in the place where such offence was committed; and such
30 prosecution shall not be heard before the justices of the peace or stipendiary magistrate with whose consent the same has been instituted.

(2.) It shall be the duty in England and Ireland of every chief officer of police, and in Scotland of every procurator fiscal, to cause
35 the provisions of this Act and of any order made thereunder to be duly enforced throughout the area in which he has authority.

10. A pharmaceutical chemist or chemist and druggist shall not be liable to any fine under this Act for supplying medicines, drugs, or medical appliances after the hour appointed by this
40 Act or by an order made thereunder for the closing of shops; but this section shall not be deemed to authorise a pharmaceutical

Saving for chemists.

A.D. 1889. — chemist or chemist and druggist to keep open shop after the said hour.

Saving for
sales to
lodgers.

11. Nothing in this Act or in any order made thereunder shall render the occupier of any premises liable to a fine for supplying any article to any person lodging in such premises.

5

Definitions.

12. In this Act, unless the context otherwise requires, the following words and expressions shall have the meanings hereby assigned to them respectively; that is to say,

“Shop” means any building or portion of a building, booth, stall, or place where goods are exposed or offered for sale by retail, and includes a place where the business of a barber is carried on;

10

“Closed” means not open for the serving of any customer; provided that nothing in this Act or any order made thereunder shall be deemed to render unlawful the continuance in a shop after the hour appointed for the closing thereof of any customers who were in the shop immediately before that hour, or the serving of such customers during their continuance therein;

15

“Local authority”—

20

(a.) in the city of London and the liberties thereof, means the mayor and commonalty and citizens of London acting by the Common Council; and

18 & 19 Vict.
c. 120.

(b.) elsewhere in the metropolis within the meaning of the Metropolis Management Act, 1855, means the county council of London; and

25

38 & 39 Vict.
c. 55.

(c.) in any part of England outside the metropolis, means an urban or rural sanitary authority within the meaning of the Public Health Act, 1875; and

30 & 31 Vict.
c. 101.

(d.) in Scotland, means the local authority under the Public Health (Scotland) Act, 1867; and

30

41 & 42 Vict.
c. 52.

(e.) in Ireland, means an urban or rural sanitary authority within the meaning of the Public Health (Ireland) Act, 1878;

“District” means the area in which a local authority has jurisdiction;

35

“Central authority”—

(a.) in England, means the Local Government Board; and

(b.) in Scotland, means the Secretary for Scotland; and

(c.) in Ireland, means the Local Government Board for Ireland;

“Chief officer of police” means—

40

(a.) in the city of London and the liberties thereof, the Commissioner of City Police; and

- (b.) in the Metropolitan Police District, the Commissioner or any Assistant Commissioner of Police of the metropolis ; and A.D 1889.
- (c.) elsewhere in England, the chief constable or head constable, or other officer by whatever name called, having the chief local command of the police in any county, riding, parts, division, or liberty of a county, borough, town, place, or combination of places maintaining a separate police force ; and
- (d.) in the police district of Dublin metropolis, the Chief Commissioner of the Police for the said district ; and
- (e.) elsewhere in Ireland, the county inspector of the Royal Irish Constabulary in any district over which a county inspector is appointed.
13. This Act shall come into operation on the *first day of* Commence-
 15 *January one thousand eight hundred and ninety*, which day is in this ment of Act.
 Act referred to as the commencement of this Act.

The SCHEDULE.

- Premises in which any intoxicating liquor is sold by retail for consumption on the premises.
- 20 Refreshment houses.
 Tobacconists shops.
 Newsagencies.

Shops (Weekly Half-holiday).

A

B I L L

To enable Local Authorities to establish
a Weekly Half-holiday for Shops.

(Prepared and brought in by
*Sir John Lubbock, Mr. Barry, Mr. Burt,
Mr. Cameron Corbett, Sir Walter Foster,
and Mr. Whitley.*)

*Ordered, by The House of Commons, to be Printed,
1 March 1889.*

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[Under 1 oz. Price 1d.]

[Bill 144.]

Slavery Law Consolidation Bill, 1889.

MEMORANDUM.

The object of the present Bill is to consolidate and amend the criminal law relating to the slave trade. A.D. 1889.

The Slave Trade Acts may be classed as (*a.*) Acts providing for the punishment of persons, 5 Geo. 4. c. 113. and 6 & 7 Vict. c. 98.; and (*b.*) Acts providing for the seizure and condemnation of slave-trading ships, 35 & 36 Vict. cc. 59. and 88., 42 & 43 Vict. c. 38.

This Bill deals only with the first-mentioned Acts, transferring, however, to itself the sections of the Slave Trade Consolidation Act, 1873, which apply to the Slave Trade Act of 1825. See clauses 8 (2), 11, and 13.

The principal amendments of the law proposed by the Bill are as follows :—

- (i.) The Bill treats the offence of slave-trading as an ordinary criminal offence punishable with imprisonment and fine, without the re-enactment of the various pecuniary penalties assigned by the Act of 1825.
- (ii.) Under clause 4 slave owning within Her Majesty's dominions, or by a British subject anywhere, is made an offence.
- (iii.) Under clause 5 the employment by a British subject of slave labour in any plantation, factory, or mine, which is situate in a foreign country, will constitute an offence.
- (iv.) Under clause 6, if the Act is contravened in a foreign country by the servant or agent of a company or partnership, the directors or partners will have the burden cast upon them of proving that the act has been done without their connivance.
- (v.) Clause 10 is intended to prevent any contravention of the Act by British subjects in Africa or the Pacific, under the guise of agreements for hire. In this clause the provisions of the Merchant Shipping Act, 1854, with respect to the engagement of seamen, are followed.

Slavery Law Consolidation Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Act of slave-trading defined.
2. Knowingly and wilfully taking part in slave-trading.
3. Embarking upon slave-trading ship.
4. Slave-holding.
5. Employment of slave labour.
6. Liability of directors and partners.
7. Punishment of slave-trading and other offences against this Act.
8. Forfeitures and seizures.
9. Mortgages, bonds, &c., in furtherance of slave-trading void.
10. Rules for hiring by British subjects of labourers in Africa and the Pacific.
11. Procedure in cases of slave-trading.
12. Provisions as to evidence.
13. Extension of 33 & 34 Vict. c. 52. to slave-trade offences.
14. Saving of 39 & 40 Vict. c. 46.
15. Interpretation of terms.
16. Repeal of enactments.
17. Title and construction.

SCHEDULE.

A

B I L L

TO

Amend and consolidate the Law relating to Slavery.

A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 5 1. Any person who within Her Majesty's dominions or the jurisdiction of the Admiralty, and any British subject who anywhere commits any of the following acts, in this Act referred to as acts of slave-trading, shall be guilty of felony, that is to say, who
- 10 (a.) Seizes, kidnaps, conveys, or removes, whether on sea or land, slaves or persons intended to be dealt with as slaves : or
- (b.) Buys, sells, barters, or trafficks in slaves or persons intended to be dealt with as slaves : or
- (c.) Ships, tranships, imports, exports, conveys, or detains in any vessel, slaves or persons intended to be dealt with as slaves.
- 15 2. Any person who within Her Majesty's dominions or the jurisdiction of the Admiralty, and any British subject who anywhere commits any of the following acts, shall be guilty of felony, that is to say, who knowingly and wilfully—
- 20 (a.) Equips, despatches, employs, lets, or hires any vessel or part thereof for the purpose of the commission of an act of slave-trading, or
- (b.) Ships, tranships, receives, or puts on board of any vessel any money, goods, or things to be employed in an act of slave-trading, or
- 25 (c.) Lends or advances, or becomes security for the loan or advance of, money or goods, employed or to be employed in an act of slave-trading, or
- (d.) Becomes guarantee or security for any person employed or to be employed in an act of slave-trading, or

Act of slave-trading defined.

(5 Geo. 4. c. 113. ss. 9, 10.)

Knowingly and wilfully taking part in slave-trading.

(5 Geo. 4. c. 113. s. 10.)

[Bill 19.]

A.D. 1889.

(e.) Insures, or contracts for the insuring of slaves or any property or subject matter employed or to be employed in the commission of an act of slave-trading, or

(f.) Takes part in any other manner in the commission or furtherance of an act of slave-trading, whether as partner, agent, or otherwise.

Embarking
upon slave-
trading ship.

3. Any person who within Her Majesty's dominions or the jurisdiction of the Admiralty, and any British subject who anywhere embarks or contracts to embark upon any vessel, knowing that it is employed in an act of slave-trading, or is intended to be so employed on the voyage or occasion on which he so embarks, shall,

(5 Geo. 4.
c. 113. s. 10.)

(a.) If he so embarks or contracts to embark in the capacity of captain, master, mate, surgeon, or supercargo, be guilty of felony, or

15

(5 Geo. 4.
c. 113. s. 11.)

(b.) If he so embarks or contracts to embark in the capacity of petty officer, seaman, marine, or servant, be guilty of an offence against this Act.

Slave-hold-
ing.

4. Any person who within Her Majesty's dominions or the jurisdiction of the Admiralty, and any British subject who in any place holds, keeps, or detains any other person as a slave and as property shall be guilty of an offence against this Act:

Provided that where a British subject is charged with an offence under this section alleged to have been committed in a country or place not within Her Majesty's dominions or the jurisdiction of the Admiralty, he shall not be guilty of the said offence if he proves (a.) that in the country or place where, and at the time when, the offence is alleged to have been committed, slavery was not unlawful, and (b.) that he came into possession of such slave as executor, administrator, or otherwise by operation of law in the said country or place.

This section shall not come into operation as regards offences committed by British subjects in any country or place not within Her Majesty's dominions or the jurisdiction of the Admiralty, until the first day of June one thousand eight hundred and ninety.

35

Employment
of slave
labour.

5. Any British subject who in any place not within Her Majesty's dominions employs or uses for the purposes of the acquisition of gain, any slave labourer upon or in any plantation, factory, or mine, whether such labourer be hired from or lent by any person being in reputed ownership of such labourer as a slave or otherwise, shall be guilty of an offence against this Act.

This section shall not come into operation until the *first day of* A.D. 1889.
June one thousand eight hundred and ninety.

6. Where an act has been committed in any place not within Her Majesty's dominions, which if committed by a British subject
5 anywhere would be an offence against this Act, and the person who committed that act is a servant or agent of a partnership or public company, then, any British subject who at the time that act was committed was a partner in that partnership or a director of that company, shall be guilty of an offence against this Act unless he
10 proves to the satisfaction of the court that the act was done without his connivance.

Liability of directors and partners.

This section shall not affect the liability of any person in respect of any other offence against this Act.

7.—(1.) Any person guilty of any offence by this Act expressed
15 to be felony shall be liable :—
(a.) To penal servitude for a term not exceeding *fourteen years*,
or

Punishment of slave-trading and other offences against this Act.

(b.) To imprisonment with or without hard labour for a term
not exceeding *two years*, and with or without a fine. (5 Geo. 4. c. 113. s. 10.)

20 (2.) Any person guilty of any offence against this Act, not expressed to be felony, shall be liable to imprisonment with or without hard labour for a term not exceeding *two years*, or to a fine, or to both imprisonment and fine. (5 Geo. 4. c. 113. s. 11.)

8.—(1.) On conviction of any person for an offence against this
25 Act, there shall be forfeited—

Forfeitures and seizures.

(a.) All property or pretended property of that person in any
slave found in his possession, or in respect of whom the offence
was committed : also (See 5 Geo. 4. c. 113. ss. 3-7.)

30 (b.) Any vessel used in or for the purpose of the commission of the offence, together with its furniture and apparel, unless it is proved to the satisfaction of the court that the vessel was so used without the knowledge or connivance of the owner, or of any part owner thereof : also

35 (c.) All goods and effects of that person found on board any vessel used in or for the purpose of the commission of the offence.

(2.) All vessels, slaves, persons, goods, and effects, which would,
in case of some person being convicted, be liable to forfeiture
under this section, may be visited, seized, and detained by
40 a person authorised in pursuance of the Slave Trade Act, 1873, whether any person has or has not been convicted of (36 & 37 Vict. c. 88. s. 3.)

A.D. 1889. — an offence against this Act in respect thereof: and any such lawful seizure and detention shall not be an offence against this Act.

Mortgages,
bonds, &c., in
furtherance
of slave-
trading void.
(5 Geo. 4.
c. 113. s. 39.)

9. Every mortgage, bond, bill, note, or other security made in furtherance of or in the commission of any offence against this Act shall be void unless the security is in its nature negotiable, and the holder took it *bonâ fide*, and without notice of any illegal consideration: and, except in the case of such negotiable securities taken as aforesaid, no action shall be brought in respect of any contract wherever made, broken, or to be performed, the making of which within Her Majesty's dominions would be an offence against this Act.

Rules for
hiring by
British sub-
jects of
labourers in
Africa and
the Pacific.

10. Where any British subject hires any labourers for employment upon, or in any plantation, factory, or mine, which is situate either in Africa as defined by this Act, or in any island of the Pacific Ocean (except such parts of Africa, and such islands of the Pacific Ocean, as are within Her Majesty's dominions), then

- (a) if the agreement of hire is made within Her Majesty's dominions, or if such agreement is made, or the place of employment is situate, without Her Majesty's dominions, but within the distance of fifty miles from a British consulate, and
- (b) if the agreement of hire is for a period exceeding six months, or if the agreement is for the hire of a labourer who has been in the service of the employer for a period, whether continuous or aggregate, of six months,

the following rules shall be observed:

- (i.) The agreement shall be in writing and dated at the time of the signature thereof, and shall be signed by the employer or his authorised agent, and also by each labourer, in the presence of a British consular officer, or if the agreement is made within Her Majesty's dominions, of a magistrate.
- (ii.) The agreement shall contain particulars of the duration and nature of the service, the amount of wages, and the deductions (if any) to be made from the wages for misconduct or other cause, and may contain any other stipulations which the consular officer or magistrate considers to be reasonable in the particular case.
- (iii.) The consular officer or magistrate shall cause the agreement to be read over and explained to each labourer, and otherwise ascertain that each labourer understands the same before he signs it, and shall attest his signature.

(iv.) Each agreement shall be signed in duplicate, one copy being given to the hirer, and the other copy being retained by the consular officer or magistrate. A.D. 1889.

5 (v.) If any British subject employs any labourer otherwise than subject to an agreement made in accordance with the provisions of this section, he shall incur a penalty not exceeding *twenty pounds* for every labourer so employed, which penalty shall be recoverable as a civil debt in any court in Her Majesty's dominions having jurisdiction in like cases, or in any British
10 consular court.

Nothing in this section shall affect the validity of any colonial law regulating the hiring within any British possession of labourers for service beyond such possession.

11. The following provisions shall have effect in proceedings for offences against the Slave Trade Acts:

Procedure in cases of slave-trading.
(36 & 37 Vict. c. 88. s. 26.)

(1.) For all purposes of trial, punishment, and jurisdiction, whether preliminary, incidental, or consequential, the offence shall be deemed to have been committed either in the place where it was committed, or in the county of Middlesex, or in any
20 place where the offender may for the time being be, whether in Her Majesty's dominions or in any foreign port or place in which Her Majesty has jurisdiction.

(2.) In any indictment, information, or other document, the offence may be described at any place where it was wholly or
25 partly committed, or on the high seas, or out of Her Majesty's dominions, as the case may be.

(3.) The venue or local description in the margin may be that of the place where the trial is held.

(4.) Where an offence is commenced in one place and completed in another, that offence is to be deemed to have been committed
30 either at the one place or at the other.

(5.) Where a person being in one place is accessory to, or aids or abets in, an offence committed in another place, the offence is to be deemed to have been committed either at the place
35 where the offence was committed, or at the place where that person was at the time of his being an accessory aiding or abetting.

(6.) When it appears to any court or judge having jurisdiction to try an offender, that the removal of that offender to some other place in Her Majesty's dominions for trial would be conducive to the interests of justice, such court or judge may by warrant,
40

[19.]

B

[Handwritten signature]

(5.) Any depositions so taken and returned to the superior court shall be deemed as good evidence as if the witnesses so examined had been examined at the trial in the superior court. 30

13. Offences committed against the Slave Trade Acts or otherwise in connexion with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the First Schedule to the Extradition Act, 1870, and that Act or any Act amending the same shall be construed accordingly.

14. Nothing in this Act shall be deemed to affect the provisions of an Act passed in the thirty-ninth and fortieth year of Her Majesty, chapter forty-six, entitled "An Act for more effectually punishing offences against the laws relating to the slave trade." 40

15. In this Act—

A.D. 1889.

The expression "British subject" means any person owing allegiance to Her Majesty.

Interpreta-
tion of terms.

5 The expression "British possession" means any part of Her Majesty's dominions exclusive of the United Kingdom, and includes Cyprus.

10 The expression "Africa" includes all islands which are within the same degrees of latitude as Africa, and within the twentieth degree of longitude west, and the sixtieth degree of longitude east, of Greenwich.

The expression "vessel" means any vessel, ship, or boat used in navigation, of whatever construction or description, and however propelled.

15 The expression "slave" includes any person dealt with as a slave, whether as a pledge for debt or otherwise. (6 & 7 Vict. c. 98. s. 2.)

The expression "indictment" includes criminal information.

The expression "superior court" means, as respects England and Ireland, the High Court of Justice, and as respects Scotland, the High Court of Justiciary.

20 The expression "magistrate" means a person having authority to act as a police magistrate or justice of the peace.

16.—(1.) The Acts specified in the schedule to this Act are hereby repealed to the extent mentioned in the third column thereof: Repeal of enactments.

25 Provided that this repeal shall not affect—

(a.) Anything duly done or suffered under any enactment hereby repealed; or

30 (b.) Any right, privilege, obligation, liability, or forfeiture acquired, accrued, or incurred under any enactment hereby repealed; or

(c.) Any legal proceedings taken or commenced under any enactment hereby repealed, and any such proceedings may be carried on and concluded, and all acts consequential thereon done as if they had been commenced under this Act.

35 (2.) Any unrepealed enactment referring to any enactment repealed by this Act shall be construed to apply to the corresponding provision of this Act.

17.—(1.) This Act may be cited as the Slavery Act, 1889.

Title and
construction.
(36 & 37
Vict. c. 88.)

40 (2.) This Act shall be construed as one with the Slave Trade Act, 1873; and that Act and this Act, and any enactments amending the same, are in this Act referred to, and may be cited, as the Slave Trade Acts.

A.D. 1889.

SCHEDULE.

Reign and Year.	Title.	Extent of Repeal.
5 Geo. 4. c. 113. -	An Act to Amend and Consolidate the Laws relating to the Abolition of the Slave-Trade.	The whole Act. 5
6 & 7 Vict. c. 98. -	An Act for the more effectual Suppression of the Slave Trade.	The whole Act.
36 & 37 Vict. c. 88.	The Slave Trade Act, 1873 - -	Section two, from "the term the Slave Trade Act, 1824," to "Abolition of the Slave Trade." 10 Section three, the words "as herein-after mentioned." 15 Sections 24 to 27.

Slavery Law Consolidation.

BILL

To amend and consolidate the Law relating to Slavery.

(Prepared and brought in by Mr. Alfred Pearce, Sir Robert Fowler, Mr. Bryce, Mr. Whitbread, Sir John Kenworthy, Mr. Winterbottom, and Mr. Henry Austriether.)

Ordered, by The House of Commons, to be Printed, 22 February 1889.

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[Under 2 oz. Price 14d.]

[Bill 19.]

A

B I L L

TO

Extend and amend the Law relating to the recovery of A.D. 1889.
Small Debts in Scotland.

WHEREAS by an Act passed in the seventh year of King 7 Will. &
William the Fourth and the first year of Her Majesty's 1 Vict. c. 41.
reign, chapter forty-one, and by another Act passed in the sixteenth 16 & 17 Vict.
and seventeenth years of Her Majesty's reign, chapter eighty, c. 80.
5 provision was made for the more effectual recovery of small debts
in the sheriff courts of Scotland, and for the trial of small debt
causes, and the provisions contained in the said Acts have been
found to be very beneficial, but by certain alterations their utility
may be increased :

10 Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled, and
by the authority of the same, as follows :

1. This Act may be cited for all purposes as the Small Debt Short title.
15 Amendment (Scotland) Act, 1889, and shall be construed as one
with the recited Acts seventh William the Fourth and first
Victoria, chapter forty-one; and sixteenth and seventeenth Victoria,
chapter eighty, so far as consistent with the tenor of these Acts
respectively; and these Acts together may be cited as the Small
20 Debt (Scotland) Acts, 1837 to 1889.

2. The provisions of the said first-recited Act shall be extended Jurisdiction
extended to
25l.
to all causes competent in the small debt court wherein the debt
or demand in question, or the fund in medio, shall not exceed the
value of *twenty-five pounds*, exclusive of expenses and fees of
25 extract; and the said first-recited Act shall be read and construed
as if the words "*twenty-five pounds*" were substituted for the
words "eight pounds six shillings and eightpence" wherever these
latter words occur in the said first-recited Act: Provided always
that where the principal sum in question exceeds *twelve pounds* the
30 fees payable under the recited Acts in any small debt cause shall be
one half greater than those therein provided.

[Bill 153.]

A

A.D. 1889.

Actions for
delivery of
goods.

3. Where a party claims to be owner, or to be entitled to the possession, of any goods, not exceeding *twenty-five pounds* in value, wrongfully withheld from him, he may apply in the small debt court for an order for delivery thereof, and the sheriff may grant such order accordingly; and the application therefor and the extract 5 of the decree, if granted, to follow thereon shall be as nearly as may be in the form of Schedules A. and B. respectively; but in other respects the procedure shall be conform, as nearly as may be, to the provisions of the said first-recited Act, so far as agreeable hereto: Provided always, that if delivery of any of the goods shall 10 have become impossible, or if their value be alternatively concluded for, the sheriff may give decree for their value to an amount not exceeding *twenty-five pounds*.

Jurisdiction
where
defenders
reside in
different
counties.

4. Where the summons in any small debt cause concludes against two or more defenders, and such defenders reside in 15 different counties of Scotland, the sheriff of any county in which one or more of such defenders reside may, on the motion of the pursuer and on being satisfied that such course is expedient, grant warrant for the summons to be issued against any or all of the defenders to appear and answer at such time and place as he shall 20 appoint; and thereafter the cause shall proceed in like manner as if all the defenders were amenable to his jurisdiction, and they shall thereon be amenable to such jurisdiction accordingly.

Defender
may consent
to decree
prior to call-
ing of cause.

5. If the party called as defender in a small debt cause shall give or send to the pursuer, or to his representative, or to the sheriff 25 clerk of the court to which he is cited, the copy of the summons served on him with his signature, or with his mark attested by a witness, or with the signature of a person authorised by him adhibited to the words "I consent to decree," or to words to that effect, or to words consenting to decree in a specified form, the 30 sheriff may, at the calling of the cause, give decree for the sums sued for in common form, or in the specified form agreed to, with the necessary expenses of the cause, though neither party be present, and it shall not be competent for any sist of diligence thereon to be issued; but the defender, if personally present at the 35 calling of the cause, may, on sufficient cause shown, and with leave of the court, revoke the consent given by him to decree being pronounced, and the sheriff shall in that event make such order as to further procedure or expenses as to him shall seem just.

Intimation of
defender's
consent to
decree.

6. The sheriff clerk shall on receipt of such consent as aforesaid 40 intimate the same to the pursuer or his known agent, if the consent be received in time to allow of such intimation being timeously made,

and for such intimation a fee of *one shilling* shall be payable as expenses of the cause. A.D. 1889.

7. Where the pursuer of a small debt cause dies, or assigns his right to pursue the same, or is divested of his estates under the bankruptcy or cessio Acts, his representatives, assignee, or trustee, may, if the sheriff shall see fit, be sisted in his stead, on a verbal application to that effect being made in court by or on behalf of such representatives, assignee, or trustee, and the sheriff may thereupon write on the original summons the names and designations of such representatives, assignee, or trustee, and the character in which he or they are sisted; and where a defender dies or is divested of his estates under the bankruptcy or cessio Acts his representatives or trustee may, in like manner, be sisted in his stead.

Sisting of a party's representatives, assignee, or trustee.

8. The provisions contained in sections seven, nine, eleven, twelve, thirteen, twenty-four, and forty-six of the Sheriff Courts, Scotland, Act, 1876, and in section twelve of the Act first and second Victoria, chapter one hundred and fourteen, shall apply to all causes in the small debt court competent under this or the before recited Acts, the word "summons" being read for the word "petition" and the word "appear" for the words "enter appearance" wherever they occur in the said sections of the Act first above mentioned.

Incorporation of provisions as to amendment, service, citation, &c., and assignment of the decree.

9. Where the officer executing, or charged with executing, a sale of a tenant's effects under a decree for rent obtained in the small debt court shall report to the court that the premises for the payment of the rent of which the sale took place, or warrant for sale was granted, are displenished, the landlord may obtain from the sheriff warrant to eject the tenant and relet the premises; but such warrant shall not be granted unless notice of the diet appointed by the sheriff for hearing the application be given to the tenant forty-eight hours beforehand; and the sheriff may at such or any adjourned diet pronounce such order as to ejection, reletting, security, expenses, or otherwise as he shall think just; and if warrant to relet be granted the rent accruing thereafter shall not be exigible from the tenant except for such period as he shall continue to occupy the premises.

Warrant may be got to eject from displenished premises and to relet.

10. All warrants to sequester and inventory for rent, and all warrants to sell, eject, or relet, and all decrees granted or pronounced in any small debt cause under this or the before recited Acts, shall be held to include authority, if need be, to open, shut, and lock fast places for the purpose of carrying such warrants and decrees into lawful execution.

Power to open lock-fast places implied in all warrants and decrees.

A.D. 1889.
—
Attendance
of agents.

11. Any party may appear by or with an agent, and where an agent appears it shall be lawful to include his reasonable remuneration in the expenses of the cause to such an amount, not exceeding *five shillings* per hour, as the sheriff shall by an act of court or in the decree allow.

5

Decree for
instalments
to become
due.

12. Where the debt or demand in question is such that if sued for in the ordinary sheriff court decision could competently have been pronounced for instalments to become due, it shall be lawful for the sheriff to make the like decerniture in the small debt court in the cause before him for any period not exceeding twelve 10 months.

Procedure
where avi-
zandum
made.

13. Where the sheriff finds it expedient to make avizandum with the cause he may pronounce decree in usual form, either on such day as he shall appoint, though any or all of the parties fail to attend, or on such day as he shall think fit, without requiring 15 any party to attend; and any sheriff of the county or sheriffdom may, at the request of the sheriff who heard the cause, pronounce such decree as he may direct; and it shall not be competent for any sist of diligence on any decree pronounced under the provisions of this section to be issued.

20

Witness to a
charge and
indorsation
of a warrant
not required.

14. A charge on a decree pronounced under this or the before-recited Acts may be validly executed by a sheriff officer alone without a witness, and all warrants granted under this or the before-recited Acts may be executed by any sheriff officer of any county without the necessity of any indorsation or warrant of con- 25 currence: Provided always, that where no sheriff officer resides within a distance of twelve miles of the place where the warrant is to be served the full travelling expenses of the sheriff officer residing nearest to such place shall be allowed against the party upon whom the warrant is served, anything contained in the tenth 30 section of the Act first and second Victoria, chapter one hundred and nineteen, notwithstanding.

Appeal on
questions of
law.

15. Any party to a cause may appeal against the decision pronounced therein (except as herein-after provided) in terms of and under the provisions contained in the Summary Prosecutions Appeals 35 (Scotland) Act, 1875; and the word "cause" as defined in the second section of said Act shall be held to include and apply to all causes competent in the small debt court.

Regulations
as to appeals.

16. Any appeal competent under the provisions of this Act may be taken within seven days after the judgment was pronounced: 40

Provided always, that the party appealing shall, within the days A D. 1889.
during which appeal may be taken, and in addition to finding
caution for such sum as may be fixed by the sheriff as the probable
expenses, if awarded, of the appeal, or making consignment thereof,
5 (according as may be required, in terms of the said Summary
Prosecutions Appeal (Scotland) Act, 1875,) consign with the clerk
of court such principal sum and expenses as he may have been
decerned to pay or such lesser sum as the sheriff may appoint.

17. Any party to a cause, or any claimant in a multiple-poin- Provisions
10 ing, or the agent of any such party or claimant, may, on payment as to ex-
of a fee of *one shilling*, obtain from the clerk of court an extract of tracts and
the decree pronounced in the cause to the extent of his interest expenses.
therein; and the sheriff may, on the application of the agent of any
party to whom expenses have been awarded, made at or before the
15 time of the decree in the cause being pronounced, decern in his
favour for the expenses of the cause to the extent of his interest
therein.

18. The extract hereby authorised may be written either on the Form and
copy of the principal summons or separately in the form of effect of the
20 Schedule C., and for the purpose of enforcing the decree or the part extract
thereof contained in the extract, such extract shall have the like
force and effect as if it had been made on the principal summons.

A.D. 1889.

SCHEDULES.

SCHEDULE A.

A.B. sheriff of the shire of _____ to _____ officers of court, jointly and severally.

Whereas it is humbly complained to me by C.D. [*design him*], 5
that E.F. [*design him*], defender, ought to deliver to the complainer
the goods specified in the list hereto annexed [*enumerate the goods
and specify shortly the ground of action and, whenever possible, the
date of its occurrence*], which goods do not exceed twenty-five
pounds, in value, and which the said defender refuses or delays to 10
deliver; and, therefore, the said defender ought to be decerned and
ordained to deliver the said goods to the complainer, with expenses:
Herefore it is my will that on sight hereof ye lawfully summon the
said defender to compare before me or my substitute in the court
house at _____ upon the _____ day of _____ 15
at _____ of the clock, to answer at the complainer's instance in
the said matter, with certification, in case of failure, of being held
as confessed; requiring you also to deliver to the defender a copy
of any list of goods pursued for, and that ye cite witnesses and
havers for both parties to compare at the said place and date, to 20
give evidence in the said matter.

Given under the hand of the clerk of court at
the _____ day of _____

G.H., Sheriff Clerk.

SCHEDULE B.

25

At _____ the day of _____ one thousand eight
hundred and _____ the sheriff of the shire of _____ decerns
and ordains the within designed _____, defender, to deliver to
the pursuer [the goods within referred to, or *state to what extent
the order for delivery is granted*]; and finds the said defender 30

liable to the pursuer in [the sum of, *any sum decerned for in lieu* A.D. 1889.
of others of the goods that cannot be delivered, with]
 of expenses; and decerns and ordains instant execution by arrest-
 ment, and also execution to pass hereon by poinding and sale and
 5 imprisonment, if the same be competent, after
 free days.

G.H., Sheriff Clerk.

SCHEDULE C.

At	the	day of	one thousand eight
10 hundred and		, in an action before the sheriff small debt	
court at		, at the instance of	, pursuer,
against		, defender, the sheriff of the shire of	
finds the said		liable to the said	in the sum
of	, with	of expenses; and further finds the	
15 said	liable to	, writer, the	
agent, in		of expenses, <i>or as the case may be.</i>	

Small Debts (Scotland).

A

B I L L

To extend and amend the Law relating
to the recovery of Small Debts in
Scotland.

*(Prepared and brought in by
Mr. Caldwell, Mr. W. P. Sinclair, Mr. Thorburn,
and Mr. Provand.)*

*Ordered, by The House of Commons, to be Printed,
8 March 1889.*

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[Under 1 oz. Price 1d.]

[Bill 153.]

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Extend and amend the Law relating to the recovery of A.D. 1889.
Small Debts in Scotland.

WHEREAS by an Act passed in the seventh year of King 7 Will. &
William the Fourth and the first year of Her Majesty's 1 Vict. c. 41.
reign, chapter forty-one, and by another Act passed in the sixteenth 16 & 17 Vict.
and seventeenth years of Her Majesty's reign, chapter eighty, c. 80.
5 provision was made for the more effectual recovery of small debts
in the sheriff courts of Scotland, and for the trial of small debt
causes, and the provisions contained in the said Acts have been
found to be very beneficial, but by certain alterations their utility
may be increased :

10 Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled, and
by the authority of the same, as follows :

1. This Act may be cited for all purposes as the Small Debt Short title.
15 Amendment (Scotland) Act, 1889, and shall be construed as one
with the recited Acts seventh William the Fourth and first
Victoria, chapter forty-one, and sixteenth and seventeenth Victoria,
chapter eighty, so far as consistent with the tenor of these Acts
respectively ; and these Acts together may be cited as the Small
20 Debt (Scotland) Acts, 1837 to 1889.

2. Where a party claims to be owner, or to be entitled to the Actions for
delivery of
goods.
possession, of any corporeal moveables, the value of which shall be
proved to the satisfaction of the sheriff not to exceed twelve pounds,
and which are wrongfully withheld from him, he may apply in the
25 small debt court for an order for delivery thereof, and the sheriff
may grant such order accordingly ; and the application therefor
and the extract of the decree, if granted, to follow thereon shall
be as nearly as may be in the form of Schedules A. and B.
respectively ; but in other respects the procedure shall be conform,

[Bill 286.]

A

A.D. 1889. as nearly as may be, to the provisions of the said first-recited Act, so far as agreeable hereto: Provided always, that if delivery of any of the subjects sued for shall have become impossible, or if their value be alternatively concluded for, the sheriff may give decree for their value to an amount not exceeding twelve pounds. 5

Jurisdiction where defenders reside in different counties.

3. Where the summons in any small debt cause concludes against two or more defenders, and such defenders reside in different counties of Scotland, the sheriff of any county in which one or more of such defenders reside may, on the motion of the pursuer and on being satisfied that such course is expedient, grant 10 warrant for the summons to be issued against any or all of the defenders to appear and answer at such time and place as he shall appoint; and thereafter the cause shall proceed in like manner as if all such defenders were amenable to his jurisdiction, and they shall thereon be amenable to such jurisdiction accordingly. 15

Sisting of a party's representatives, assignee, or trustee.

4. Where the pursuer of a small debt cause dies, or assigns his right to pursue the same, or is divested of his estates under the bankruptcy or cessio Acts, his representatives, assignee, or trustee, may, if the sheriff shall see fit, be sisted in his stead, on a verbal application to that effect being made in court by or on behalf of such represen- 20 tatives, assignee, or trustee, and the sheriff may thereupon write on the original summons the names and designations of such representatives, assignee, or trustee, and the character in which he or they are sisted; and where a defender dies or is divested of his estates under the bankruptcy or cessio Acts his representatives 25 or trustee may, in like manner, be sisted in his stead.

Incorporation of provisions as to amendment, service, citation, &c., and assignment of the decree.

5. The provisions contained in sections seven, nine, eleven, twelve, thirteen, twenty-four, and forty-six of the Sheriff Courts, Scotland, Act, 1876, and in section twelve of the Act first and second Victoria, chapter one hundred and fourteen, shall apply to all causes 30 in the small debt court competent under this or the before recited Acts, the word "summons" being read for the word "petition" and the word "appear" for the words "enter appearance" wherever they occur in the said sections of the Act first above mentioned.

Warrant may be got to eject from displenished premises and to relet.

6. Where the officer executing, or charged with executing, a sale 35 of a tenant's effects under a decree for rent obtained in the small debt court shall report to the court that the premises for the payment of the rent of which the sale took place, or warrant for sale was granted, are displenished, the landlord may obtain from the sheriff warrant to eject the tenant and relet the premises; but such 40

warrant shall not be granted unless notice of the diet appointed by the sheriff for hearing the application be given to the tenant forty-eight hours beforehand, which notice may be given by registered letter addressed to the tenant's last known address; and the sheriff
 5 may at such or any adjourned diet pronounce such order as to ejection, reletting, security, expenses, or otherwise as he shall think just; and if warrant to relet be granted the rent accruing thereafter shall not be exigible from the tenant except for such period as he shall continue to occupy the premises.

A.D. 1889.

- 10 7. All warrants to sequester and inventory for rent, and all warrants to sell, eject, or relet, and all decrees granted or pronounced in any small debt cause under this or the before recited Acts, shall be held to include authority, if need be, to open, shut, and lock fast places for the purpose of carrying such warrants and
 15 decrees into lawful execution.

Power to open lock-fast places implied in all warrants and decrees.

8. Any party may appear by or with a duly qualified agent, and where such agent appears and the sheriff is of opinion that his employment was proper in the circumstances, then it shall be lawful to include his reasonable remuneration in the expenses of the
 20 cause to such an amount, not exceeding five shillings per hour, as the sheriff shall by an act of court or in the decree allow.

Attendance of agents.

9. Where the debt or demand in question is such that if sued for in the ordinary sheriff court decision could competently have been pronounced for instalments to become due, it shall be lawful
 25 for the sheriff to make the like decerniture in the small debt court in the cause before him for any period not exceeding twelve months.

Decree for instalments to become due.

10. Where the sheriff finds it expedient to make avizandum with the cause he may pronounce decree in usual form, either on
 30 such day as he shall appoint, though any or all of the parties fail to attend, or on such day not later than seven days from the hearing of the cause, as he shall think fit, without requiring any party to attend; and any sheriff of the county or sheriffdom may, at the request of the sheriff who heard the cause, pronounce
 35 such decree as he may direct; and it shall not be competent for any sist of diligence on any decree pronounced under the provisions of this section to be issued.

Procedure where avizandum made.

11. A charge on a decree pronounced under this or the before-recited Acts may be validly executed by a sheriff officer alone
 40 without a witness, and all warrants granted under this or the before-recited Acts may be executed by any sheriff officer of any

Witness to a charge and indorsation of a warrant not required.

A.D. 1889. — county without the necessity of any indorsation or warrant of concurrence: Provided always, that where no sheriff officer resides within a distance of twelve miles of the place where the warrant is to be served the full travelling expenses of the sheriff officer residing nearest to such place shall be allowed against the party 5 upon whom the warrant is served, anything contained in the tenth section of the Act first and second Victoria, chapter one hundred and nineteen, notwithstanding.

Provisions
as to ex-
tracts and
expenses.

12. Any party to a cause, or any claimant in a multiple-poin-
ding, or the agent of any such party or claimant, may, on payment 10
of a fee of one shilling, obtain from the clerk of court an extract of
the decree pronounced in the cause to the extent of his interest
therein; and the sheriff may, on the application of the agent of any
party to whom expenses have been awarded, made at or before the
time of the decree in the cause being pronounced, decern in his 15
favour for the expenses of the cause to the extent of his interest
therein.

Form and
effect of the
extract.

13. The extract hereby authorised may be written either on the
copy of the principal summons or separately in the form of
Schedule C., and for the purpose of enforcing the decree or the part 20
thereof contained in the extract, such extract shall have the like
force and effect as if it had been made on the principal summons.

SCHEDULES.

A.D. 1889.

SCHEDULE A.

A.B. sheriff of the shire of _____ to _____ officers of court, jointly and severally.

- 5 Whereas it is humbly complained to me by C.D. [*design him*], that E.F. [*design him*], defender, ought to deliver to the complainer the subjects specified in the list hereto annexed [*enumerate the subjects and specify shortly the ground of action and, whenever possible, the date of its occurrence*], which subjects do not exceed twelve
- 10 pounds, in value, and which the said defender refuses or delays to deliver; and, therefore, the said defender ought to be decerned and ordained to deliver the said subjects to the complainer, with expenses: Herefore it is my will that on sight hereof ye lawfully summon the said defender to compare before me or my substitute in the court
- 15 house at _____ upon the _____ day of _____ at _____ of the clock, to answer at the complainer's instance in the said matter, with certification, in case of failure, of being held as confessed; requiring you also to deliver to the defender a copy of any list of subjects pursued for, and that ye cite witnesses and
- 20 havers for both parties to compare at the said place and date, to give evidence in the said matter.

Given under the hand of the clerk of court at the _____ day of _____ .

G.H., Sheriff Clerk.

SCHEDULE B.

25

At _____ the day of _____ one thousand eight hundred and _____ the sheriff of the shire of _____ decerns and ordains the within designed _____, defender, to deliver to the pursuer [the subjects within referred to, or state to what extent

30 the order for delivery is granted]; and finds the said defender

A.D. 1889. liable to the pursuer in [the sum of, *any sum decerned for in lieu of others of the subjects that cannot be delivered*, with]
of expenses; and grants warrant for all lawful execution hereon.

G.H., Sheriff Clerk.

SCHEDULE C.

5

At the day of one thousand eight
hundred and , in an action before the sheriff small debt
court at , at the instance of , *pursuer*,
against , *defender*, the sheriff of the shire of
finds the said liable to the said in the sum 10
of , with of expenses; and further finds the
said liable to , writer, the
agent, in of expenses, *or as the case may be*.

Small Debts (Scotland).

A

B I L L

[AS AMENDED IN COMMITTEE]

To extend and amend the Law relating
to the recovery of Small Debts in
Scotland.

(*Prepared and brought in by*
Mr. Caldwell, Mr. W. P. Sinclair, Mr. Thorburn,
and Mr. Provand.)

Ordered, by The House of Commons, to be Printed,
24 June 1889.

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[*Price 1d.*]

[Bill 286.]

Small Holdings Bill.

ARRANGEMENT OF CLAUSES.

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Clauses.

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 2. Extent of Act.
 3. Interpretation of clause.
-

PART II.

Small Holdings.

4. Local authority may sell small holdings on certain terms.
 5. Loans for improvement of small holdings.
 6. Remedy of claimant by title paramount.
-

PART III.

Present Tenants.

7. Local authorities may advance to tenants to enable them to purchase holdings.
 8. Terms and conditions of purchase of holdings.
-

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9. Limitations of power to alienate small holding.
10. Provision for devise contrary to Act and for intestacy.
11. Remedies of mortgagees.
12. Trusts or contracts contrary to the Act, how to be dealt with.
13. Executions and seizures.

[Bill 29.]

A

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 15. Seal of registry.
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 18. Registration in case of devises.
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 20. Matters to be registered and how.
 21. Form of register.
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 23. Right to have name on register.
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 27. Attesting of deeds.
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 29. Entry of caveats on register.
 30. Cancellation of caveats.
 31. Expiry of caveats.
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-

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-

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- 54. Assessment and levy.
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- 56. Officers to permit inspection.
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- 58. Common fund.
- 59. Precepts to overseers.

[29.]

A 2

Clause.

- 60. Provision for part of parish.
- 61. Overseers to levy special rate.
- 62. Mode of making, assessing, and levying.
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- 65. Remedy against overseers.

Miscellaneous.

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- 67. Condition of special rating.
- 68. Rules.

SCHEDULE.

A
B I L L

TO

Give facilities for the Creation of Small Holdings of Land. A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5

PART I.

Preliminary.

1. This Act may be cited as the Small Holdings Act, 1889.

Short title.

2. This Act shall not extend to Scotland or Ireland, nor to the Metropolis.

Extent of Act.

10 3. In this Act, if not inconsistent with the context, the following words and expressions have the meanings herein-after respectively assigned to them ; that is to say,

Interpretation clause.

“The Metropolis” means the city of London and all parishes and places mentioned in Schedules A., B., and C. to the Metropolis Management Act, 1855 :

15

“Local authority” shall mean any district council that may be established by any Act of Parliament in this or any succeeding session of Parliament, and in the meantime shall mean respectively the urban sanitary authority and the rural sanitary authority as created and defined in the Public Health Act, 1875 (38 & 39 Vict. c. 55) :

20

“Small holding” means land not less than one acre and not exceeding fifty acres in extent, including messuages, buildings, easements, and hereditaments of any tenure.

25

PART II.

Small Holdings.

4. It shall be lawful for any local authority, if it shall think fit, to sell to any one person a small holding upon the terms and conditions following :

[Bill 29.]

Local authority may sell small holdings on certain terms.

A.D. 1889.

- (1.) Public notice shall be given of any small holdings being for sale in the prescribed manner :
- (2.) The local authority shall not be bound to accept the highest or any offer :
- (3.) The purchase money shall be a net sum, including all cost of conveyance and transfer, but shall not include any expense incurred by the purchaser for legal or other advice or assistance :
- (4.) The title to the purchaser in the case of any sale by any local authority of any small holding shall be guaranteed to be absolutely good as against eviction by title paramount to the local authority :
- (5.) Payment of the purchase money shall be as follows :
 The purchaser shall pay on completion *one fourth* of the entire purchase money, and shall not at any time pay more than such *one fourth* of the entire purchase money, so that *three fourths* shall always remain unpaid :
 The purchaser shall pay half-yearly to the local authority interest on the unpaid balance of the purchase money at the rate of *one* per cent. above the rate of interest paid by the local authority to the Treasury at the date of such advance :
 The unpaid balance of purchase money and all interest thereon shall be a first charge on the small holding :
- (6.) No public-house or beer shop, or place for the sale of any intoxicating liquors, shall be permitted on the small holding :
- (7.) No trade or business which shall, in the opinion of the local authority, be of an offensive or dangerous description, or tending to depreciate the value of neighbouring lands, shall be permitted on the small holding :
- (8.) The small holding shall be maintained in any reasonable and proper cultivation, except any part thereof which may be used for the purposes of any lawful trade, business, or calling :
- (9.) The small holding shall be subject to the restrictions as to transfer, alienation, and transmission provided in Part IV. of this Act :
- (10.) The local authority shall be entitled to repurchase any small holding at any time for any purpose of public improvement or of local utility, or for building purposes, or because the land is capable of being used more profitably than as a small holding ; but in any such case one year's notice in writing shall be given to all persons appearing on the register to be interested therein

of such intended resumption ; and the price of re-purchase shall be the value of the land as land held as a small holding, together with all unexhausted improvements made thereon, and *ten* per cent. for compulsory re-purchase, and a proper allowance for any inconvenience to or disturbance of business, cost of removal, and loss of fixtures, or acts of husbandry, deducting therefrom any sums due to the local authority :

(11.) The local authority shall be entitled at any time to re-purchase by agreement the whole or any part of a small holding.

5. Any local authority may make loans to the owner of any small holdings for buildings or other improvements on such holding on any terms that may be agreed upon, subject to any general conditions which may from time to time be prescribed by Treasury minutes for that purpose, and subject to the following provisions ; that is to say,

Loans for improvement of small holdings.

(1.) At the time of making any loan the small holding shall be free from mortgage :

(2.) Terms of repayment shall be so arranged that the loan and all interest thereon shall be paid off within a period in no case exceeding *thirty-five years* from the making of such loan :

(3.) Any loan shall be a charge upon any small holding to the owner of which such loan is made next in priority after any other sums due at the date of the making of such loan from such owner to the local authority :

(4.) Entry shall be made in the register at the time of making such loan of all sums so lent, and entry shall likewise be made of any repayment of such loan, or a part thereof ; and at the time of making such loan an agreement embodying the terms thereof shall be signed by the borrower and delivered to the local authority.

6. With respect to the guarantee to be given by the local authority on the sale by them of a small holding, the following provisions shall apply :—

Remedy of claimant by title paramount.

Any person claiming that he is entitled to a small holding, or any part thereof, or any interest therein, under a title not derived from but paramount to the title of the local authority at the time of such sale, shall not recover possession of such small holding, or any part thereof, but may proceed against the local authority as though such local authority were in possession of such small holding, or such part thereof ; and in the event of his establishing that but for this Act he would have been entitled to recover

A.D. 1889. — possession, or joint possession, or other interest claimed, the court shall award to him damages in lieu of possession or of his interest.

Such damages shall, according to the interest of the claimant, be based upon the value of the land in question as it was at the time of the sale effected to the local authority, adding thereto the 5 enhanced value thereof at the date of the judgment of the court arising otherwise than by improvements effected in the interval between such sale and such judgment.

Such damages shall also include any sum for mesne profits that may be just. 10

PART III.

Present Tenants.

Local authority may advance to tenants to enable them to purchase holdings.

7. Any local authority may, out of moneys in their hands borrowed from the Treasury, advance sums for the purpose of enabling tenants or purchasers to purchase their holdings within 15 the district of such local authority in the manner as follows; that is to say,

- (1.) Where a sale of a holding, agricultural or pastoral, or partly agricultural and partly pastoral, is about to be made in consideration of the payment of a principal sum, the local 20 authority may advance to the purchaser for the purpose of such purchase any sum not exceeding *three fourths* of the said principal sum :
- (2.) Such sales shall be completed through the medium of the local authority at a fixed price, or per-centage according to a 25 scale to be settled from time to time by the Local Government Board, and shall be in the form prescribed :
- (3.) No such advance shall be made by the local authority unless they are satisfied that the title is good, the sale *bonâ fide*, and the price reasonable : 30
- (4.) No advance shall be made by the local authority except on the terms that it shall be a first charge on the said holding, and that such holding is otherwise free from all incumbrances :
- (5.) No such advance shall be made to enable any purchaser to 35 purchase a holding of greater extent than fifty acres :
- (6.) No such advance shall be made except in cases where it is made to one person for the purpose of occupying and farming the holding in respect of which the advance is made :
- (7.) All such advances shall be secured by the execution by the 40 purchaser of a deed in the form prescribed.

8. When any local authority shall have made an advance to any tenant under this Act to enable him to purchase his holding, such holding shall become a small holding under this Act, and shall be held upon the terms and conditions provided by this Act.

A.D. 1889.

Conditions
and terms of
purchase of
holdings.

5

PART IV.

Alienation, Transfer, and Transmission.

9. No person entitled to a small holding shall assign, underlet, or dispose of the small holding, or any part thereof, except to the extent and in the manner following; that is to say,

Limitations
of power to
alienate
small hold-
ing.

10 a. By registered mortgage of the entire holding in the form prescribed:

b. By registered transfer to one person of his entire interest in the entire holding in the form prescribed:

15 c. By devise in favour of one person of his entire interest in the entire holding.

10. In case a small holding, or any part thereof, is devised otherwise than as aforesaid, the entire small holding shall devolve to and become vested in the personal representatives of the testator, who shall sell the same to one person within twelve months after

Provision for
devise con-
trary to Act
and for in-
testacy.

20 the death of the testator, or such extended time as may be permitted by the local authority; and the net proceeds of such sale shall be distributed or held or applied to or for the same persons and in the same manner and proportions as the small holding would have been distributed or held or applied had the devise not been
25 inoperative by reason of this Act:

In case of the owner of a small holding dying intestate as to such small holding, or any part thereof, the entire small holding shall devolve to and become vested in the personal representatives of such deceased owner, who shall sell the same to one person within
30 twelve months after the death of such intestate, or such extended time as may be permitted by the local authority; and the net proceeds of such sale, or so much thereof as is the equivalent of the undevise portion of the small holding, shall be distributed by them as personal property in accordance with the statutes and law in
35 that behalf.

11. In respect of foreclosure, possession, or sale by mortgagees under their powers, the equity of redemption of any small holding shall survive until the person foreclosing, taking possession, or purchasing shall have caused one person to be registered as owner
40 of the subject of the mortgage.

Remedies of
mortgagees.

[29.]

B

A.D. 1889. **12.** If any person entitled to a small holding, or any interest therein, shall, by means of any trust or contract or otherwise howsoever, create any right or interest to or in the same which, by reason of the provisions of this Act, could not be created by direct transfer or mortgage, or, in the case of testamentary trusts, by direct devise, no court shall specifically carry out such trust, contract, or other assurance, but shall have power to order the sale by registered transfer of such small holding, provided it can be done without injustice, and to order the application of the proceeds according to the rights of parties, or to decree such damages or compensation or other relief as may be just to or from any party, with or without cancellation or avoidance of the trust, contract, or other assurance.

Trusts or contracts contrary to the Act, how to be dealt with.

13. If any person becomes entitled to any right of seizure, lien, estate, or other interest in any small holding, under any execution, sequestration, charging order, adjudication in bankruptcy, or other process of any court, any court shall have the power to order such transfers, mortgages, sales, or other dealings therewith as may be just, and the same shall be duly registered, but no court shall order any such transfers, mortgages, sales, or other dealings as could not have been effected under this Act by a person entitled to such small holding.

Executions and seizures.

PART V.

Registration of Titles.

14. Every local authority which shall establish any small holdings under this Act shall open a separate register for the registration of titles to such small holdings. The business of such registry shall be conducted by a registrar with any necessary assistance, and any number of local authorities may combine to have a joint office and joint registrar.

Register for small holdings to be established.

15. There shall be a seal for each registry, and judicial notice shall be taken of the seal and signature of the registrar in all legal proceeding.

Seal of registry.

16. There shall be in each registry a plan or plans showing sufficiently the situation and boundaries of each small holding, and each such holding shall be distinguished by a separate number or other distinctive designation.

Plans.

17. With respect to small holdings the following estates and interests (other than mortgages) shall be capable of registration and shall be registered; namely,

A.D. 1889.

What estates and interests in small holdings to be registered.

1. Original ownership of the first registered owner :
- 5 2. Transfers in the prescribed form to one person of the entire holding :
3. Devises in favour of one person of the entire holding.

18. In case any devise shall in form be to trustee or trustees, but beneficially be a devise in favour of one person, of any entire small holding, the person beneficially entitled shall be registered instead of such trustee or trustees.

Registration in case of devises to trustees.

19. In respect of the registration of mortgages and transfers of mortgages, the following provisions shall have effect:—

Registration of mortgages.

- 15 1. The entire mortgage may be transferred by registered transfer in the form prescribed, and such form alone shall be registered :
2. On the decease of any sole mortgagee, or of the last survivor of several mortgagees, his executors or administrators shall be entitled to be registered in respect thereof :
- 20 3. No person or persons shall be registered as part owner or owners of any mortgage, or in respect of any partial or limited interest therein or right thereto :
4. Nothing herein shall interfere with the power of any mortgagee to deal with his interest in such mortgage in any manner now by law allowed, or with the rights of mortgagees and their representatives as between themselves.
- 25

20. The register of small holdings shall show the following matters :

Matters to be registered, and how.

- (1.) The number of the holding on the plan :
- 30 (2.) The description of the holding :
- (3.) The mode and date of its creation :
- (4.) The name and address of the first registered owner, and of persons acquiring any interest by any subsequent change on the register :
- 35 (5.) The state of debt to the local authority, and the conditions and changes thereof :
- (6.) The date of registration of any change in the title :
- (7.) The part of the holding affected by the change :
- (8.) The description of the change :
- 40 (9.) The manner in which the change is effected :
- (10.) The nature of the interest acquired by any persons registered in respect of such change :

[29.]

B 2

A.D. 1889.

(11.) Caveats, and their removal, with dates :

(12.) The payments when received in respect of debt and interest to the local authority.

Form of register.

21. The register shall show the registered matters and particulars in the form set forth in the schedule to this Act, and shall be filled in in the manner illustrated thereby, or as near thereto as circumstances admit. 5

Matters not to be registered.

22. Save and except the several matters and things herein required to be entered in the register, no other matter or thing shall be entered there, and no estates, rights, titles, or interests in or to any small holding, or any part thereof, shall be entered in such register, save and except such estates, rights, titles, and interests as are herein required and permitted to be registered, and in the manner herein required and permitted. 10

Right to have name on register.

23. Any person becoming entitled to any small holding, for any estate, interest, or right capable of registration, shall have the right to have his name placed on the register for such estate, interest, or right. 15

Address of registered owner.

24. On the entry of any person on the registry such person shall give his postal address, which shall be entered on the register, and any application to make any change in the register shall be in the form prescribed, and signed by the person making such application. 20

Notices of change on register.

25. On receipt of any application for a change in the register, the registrar shall send by post notices of such application to all the persons appearing on the register to have any interest in the holding to which such application relates, including the person purporting to sign such application. 25

Application for change on register.

26. In the event of any change of title to any small holding taking place, the person claiming to have his name placed on the register shall make and sign an application in the form prescribed. 30

Attesting of deeds.

27. Every deed requiring to be registered, and relating to a small holding, shall be executed or acknowledged by the person transferring any interest therein in the presence of some justice of the peace, minister of religion, or overseer residing in the union in which such holding is situated, or of the registrar under this Act ; and such justice, minister, overseer, or registrar shall sign such deed as a witness, and state therein that the identity of the person so transferring is known to him. 35

Caveats.

28. At any time any person may enter a caveat with the registrar against any change or changes on such register, which 40

shall be in writing and signed by the person entering the same, and shall contain an address where any communications may be sent to him. Such caveat shall specify the estate or interest the change of which on the register is objected to. A.D. 1889.

5 **29.** When any such caveat shall be received it shall forthwith be entered on the registry, and the registration of any change in the register shall not be delayed, but until such caveat is cancelled or has expired, the person taking under such registration or while such caveat remains in force shall take subject to any rights or equities affecting the estate or interest specified in such caveat. Entry of caveats on register.

10 **30.** A caveat may be cancelled in any of the following ways :— Cancellation of caveats.
 (1.) By the order of the registrar of the county court on a summons to cancel the same by consent :
 (2.) By the order of the county court upon motion or hearing :
 (3.) By the order of the Appellate Court.

15 **31.** If the caveat has not been cancelled, and no order for rectification of the register shall have been made in the meantime, the caveat shall expire at the end of six months from the date of its being entered, or at the end of such further time as the county court or Appellate Court shall order. On cancellation an entry of its removal shall be made in the register with the date of such removal. Expiry of caveats.

20 **32.** The registration of any change of title to any small holding, or to any mortgage thereof, shall be effected as follows :— Mode of effecting change on register.
 (1.) In all cases of transfer or mortgage, the deed effecting the same shall be produced to the registrar, or its absence satisfactorily accounted for :
 (2.) In the case of transfer by devise the will or probate shall be produced to the registrar :
 (3.) In case of any person becoming entitled as executor or administrator the probate or letters of administration shall be produced to the registrar :
 (4.) In case of change of title by order of court an office copy of such order shall be produced to the registrar :
 (5.) In all cases where it is desired to effect a change in the title on the register, there shall be produced to the registrar not only the deed or document, or office copy thereof, herein-before required, but also the deed or document conferring title upon the last person appearing on the register to be entitled, for the estate or interest sought to be transferred, unless the absence thereof be satisfactorily accounted for.

A.D. 1889. Subject as aforesaid, the registrar shall not enter any change of title on the register unless the documents above required shall have been produced, and, if the circumstances appear to him to make it expedient, shall be at liberty to require additional evidence of the title or bona fides of any persons seeking to have such change so entered. 5

Effect of
registration
of registered
title.

33. Where any small holdings has been sold by any local authority to any person the entries in the register shall be conclusive evidence of the title of the persons therein appearing to be entitled for the interest registered, subject to the power of the court to rectify the register. Provided that this section shall not prejudice the right of any person to claim damages against the local authority under section six of this Act. 10

Power to
rectify the
register.

34. On the application of any person claiming to be registered for any estate or interest in any lands registered under this Act, the court shall have power to order any entry to be made, interpolated, altered, or cancelled therein, so that the person really entitled may have the title or priority which the justice of the case and the provisions of this Act require. Provided that in no case shall the court by any such order invalidate or disturb the rights derived from registration of any person who shall have acquired such title or rights bonâ fide and for value and without actual knowledge of facts which made acquisition by him of such title or rights dishonest on the part of the transferor or of himself towards any person or class of persons. 25

Unreason-
able entry
of caveats.

35. If any person shall unreasonably enter or cause to be entered any caveat he shall be liable to pay to any person or persons damaged thereby such sum as may be awarded by the court, either on the cancellation of the caveat or in a separate action; and the court may restrain any person by injunction from entering or continuing a caveat where it would be vexatious to enter or continue the same. 30

Fees to local
authority.

36. The local authority shall be entitled to charge on any registration or application to register any matter or thing under this Act such fees as may from time to time be prescribed by the Local Government Board. 35

PART VI.

A.D. 1889.

Letting Land for Small Holdings.

37. The local authority shall have power to let any land owned by them or rented by them or acquired by them for the purposes of this Act as small holdings.

Power to local authority to let small holdings.

38. The local authority shall have power to make or vary regulations as to the public notification of such small holdings being to let, and as to the method of letting the same, and as to the terms on which the same shall be let, and such regulations shall come into force on being approved by the Local Government Board. Provided that all such regulations shall make provision for reasonable notice to be given to any tenant of any small holding of the determination of his tenancy, and for preventing the same from being sublet or defectively cultivated, and for giving to any outgoing tenant proper compensation for any unexhausted improvements or acts of cultivation.

Regulations for letting small holdings.

All small holdings shall be held on the terms of such regulations and of this Act.

39. With respect to the letting of small holdings the following provisions shall have effect:

Terms of letting.

- (1.) Every small holding shall be let free of all charges, that is to say, tithe, tithe rentcharge, rates, taxes, and outgoings whatsoever.
- (2.) The local authority shall for the purposes of all rates, taxes, tithe, and tithe rentcharges be deemed to be the occupiers of the small holdings.
- (3.) Each small holding let to one person shall consist of not more than ten acres, but the local authority shall have power to let one or more small holdings to a number of persons working on a co-operative system, provided the same be approved by the local authority.
- (4.) The sanction of the local authority shall be necessary for the erection of any building whatever upon the holding; but no local authority shall authorise the erection of any dwelling-house, workshop, or other building except such as may reasonably be required in connexion with the proper cultivation of the holding, and if any building other than aforesaid is so erected, the local authority may forthwith pull down the same and sell and dispose of the materials thereof, and the proceeds of the sale shall, after payment of all expenses, be handed

A.D. 1889.

to the tenant of such small holding. If any building allowed to be erected is erected, then at the end of the tenancy the local authority or the incoming tenant may, but shall not be bound to, take any such building or pay any compensation therefor; but the outgoing tenant shall be at liberty before the 5 expiration of his tenancy to remove the same, and if he fails to do so, the local authority may pull down or dispose of such building in any manner they may deem fit.

Recovery of
rent and
possession
of small
holdings.

40. Any rent for any small holding let in pursuance of this Act, and the possession of such small holding in the case of any notice 10 to quit or other failure to deliver up possession of the same as required by law, may be recovered in all respects as if the same were a holding under the Enclosure Act, 1845, and the Acts amending the same, and sections one hundred and ten and one hundred and eleven of the Enclosure Act, 1845, shall apply as if 15 they were herein enacted, and as if the local authority were the wardens within the meaning of the said sections.

Public
pastures.

41. A local authority shall have power to use for public pasture any land owned by them or rented by them or acquired by them 20 for the purposes of this Act.

The local authority shall have power to make or vary regulations as to the agistment of cattle or animals on such public pasture, and the charge for such agistment and the terms thereof and such regulations shall come into force on being approved by the Local Government Board, and all animals agisted on such public pasture 25 shall be agisted on the terms of such regulations.

PART VII.

Acquisition of Land.

Power to
take lands.

42. Any local authority may, for the purposes and subject to the provisions of this Act, purchase, sell, hire, or exchange any lands, 30 whether situated within or without their district.

Power to
local authority to im-
prove lands.

43. Any local authority shall have power to lay out and improve any land belonging to them, or which they shall have acquired for the purposes of this Act, and to make improvements thereon, and for such purposes to do any of the following things: 35

- (1.) Drainage, including the straightening, widening, or deepening of drains, streams, or watercourses:

- (2.) Irrigation, warping :
 (3.) Laying down drains, pipes, and machinery for supply and distribution of sewage as manure :
 (4.) Embanking or weiring from a river or lake, or from the sea or tidal water :
 (5.) Inclosing, straightening of fences, re-division of fields :
 (6.) Reclamation, dry warping :
 (7.) Making farm roads, private roads, and other roads or streets :
 (8.) Clearing, trenching, planting :
 (9.) Building cottages, farmhouses, offices, and outbuildings, and other buildings for agricultural purposes :
 (10.) Making reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, and other works for the supply and distribution of water for agricultural purposes, or for domestic or other consumption :
 (11.) Making of gardens, village greens, or other open spaces for the use gratuitously of the public or of the inhabitants of the district :
 (12.) Reconstruction, enlargement, or improvement of any of the above-mentioned works.

A.D. 1889.

44. Any local authority may at any time sell or dispose of, in any way they think proper, any superfluous lands, or lands that they may be unable profitably to apply for the purposes of this Act, free from any conditions or restraint, and the net proceeds of such land shall be forthwith applied towards reducing their debt to the Treasury.

Sale of
superfluous
lands.

PART VIII.

MISCELLANEOUS.

Jurisdiction of Court.

45. The county court of the district in which any small holding, or any part thereof, is situate shall have the following jurisdiction in respect thereto:

Power of
county court.

- (1.) To make an order for payment of any rent, quitrent, interest, or any other sum of money which may be due to a local authority or by a local authority in respect of any small holding :

[29.]

C

A.D. 1889.

(2.) To make an order for delivery of possession of any small holding to any local authority, or by a local authority to any person :

(3.) To grant an injunction in respect of any breach of any duty or contract in relation to a small holding at the suit of any local authority against any person, or at the suit of any person against any local authority :

(4.) To exercise all and any other powers in this Act given to the court.

Appeals.

46. With respect to appeals from the decisions of the county court under this Act the following provision shall have effect :

Any person aggrieved by the ruling, order, direction, or decision of the county court judge in respect of—

(1.) Any application for an order for payment of any sum exceeding *fifty pounds* ;

(2.) Any application for an order for delivery of possession or for sale ;

(3.) Any application for an injunction ;

(4.) Rectification of any register or making any entry therein ;

shall have, both as to fact and law, the same right of appeal and in the same form and manner and to the same court as is provided

38 & 39 Vict.
c. 50, s. 6.

by the County Court Act, 1875, section six ; and by the leave of the county court or of the Appellate Court such appeal may be allowed in any case.

Power to
order sale of
holding.

47. In case any small holding, or any part thereof, of one acre or more in extent, be so devised or so devolve by reason of intestacy that there is doubt as to the person entitled thereto, or as to the capacity of such person by reason of absence from England, or mental condition, or otherwise, to keep such holding in cultivation, or in case such holding be by will or through intestacy so subdivided as that the cultivation thereof is made difficult, it shall be lawful for the county court, on the application of the local authority, and with notice to all persons interested, to order the sale of such holding, or part thereof, and to order the application of the proceeds of such sale according to the legal rights of the persons severally interested.

Advances by Treasury.

Treasury
may advance
money.

48. *The Treasury may advance from time to time, out of any moneys from time to time supplied under any Act of Parliament for this purpose, such sums as the Treasury may deem expedient to any local authority for carrying out any of the purposes of this*

Act, upon such terms as to payment of interest and repayment of principal, and otherwise, as the Treasury may determine by a minute from time to time. A.D. 1889. —

Expenses of Urban Local Authority.

- 5 49. All expenses as herein-after defined incurred or payable by an urban local authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the special district fund and special district rate leviable by them under this Act. Powers of urban local authority.
- 10 50. In the district of every urban local authority whose expenses under this Act are directed to be defrayed out of the special district fund and special district rate there shall be established a fund called the special district fund, and a separate account called the "special district fund account" of all moneys carried under this Act to the account of that fund shall be kept by the treasurer of the urban local authority; and such moneys shall be applied by the urban local authority in defraying such of the expenses chargeable thereon under this Act as they may think proper. District fund.
- 15 51. For the purpose of defraying any expenses chargeable on the special district fund which that fund is insufficient to meet, the urban local authority shall from time to time, as occasion may require, make, by writing under their common seal, and levy, in addition to any other rate leviable by them, a rate or rates to be called special district rates. Special district rate.
- 20 52. Any such rate may be made and levied either prospectively, in order to raise money for the payment of future charges and expenses, or retrospectively, in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate: in calculating the period of six months during which the rate may be made retrospectively, the time during which any appeal or other proceeding relating to such rate is pending shall be excluded. Limitation of rate.
- 25 53. Public notice of intention to make any such rate, and of the time when it is intended to make the same, and of the place where a statement of the proposed rate is deposited for inspection, shall be given by the urban authority in the week immediately before the day on which the rate is intended to be made, and at least seven days previously thereto; but in case of proceedings to levy or recover any rate in shall not be necessary to prove that such notice was given. Notice of rate.
- 35

A.D. 1889.

Assessment
and levy.38 & 39 Vict.
c. 55. s. 211.Power to
take copies
of valuation
list.Officers to
permit in-
spection.General
provisions as
to rates.38 & 39 Vict.
c. 55.
ss. 218-223
225-227.

54. With respect to the assessment and levying of special district rates under this Act, the same provisions shall have effect as have effect with respect to general district rates under the Public Health Act, 1875, section two hundred and eleven; provided that sub-section four thereof shall not apply or have effect.

5

55. For the purpose of assessing special district rates any person appointed by the urban local authority may inspect, take copies of, or make extracts from any valuation list or rate for the relief of the poor within the district, or any book relating to the same.

56. Any officer having the custody of any such rate or book who refuses to permit such inspection or the taking of such copies or extract shall be liable to a penalty not exceeding *five pounds*.

10

57. The general provisions as to urban rates contained in the Public Health Act, 1875, sections two hundred and eighteen, two hundred and nineteen, two hundred and twenty, two hundred and twenty-one, two hundred and twenty-two, two hundred and twenty-three, two hundred and twenty-five, two hundred and twenty-six, and two hundred and twenty-seven, shall apply to special district rates under this Act.

15

Expenses of Local Authority.

20

Common
fund.

58. The expenses as herein-after defined incurred or payable by a local authority in the execution of this Act shall be payable out of a common fund to be raised out of the poor rate of the parishes in the district, according to the rateable value of each contributory place in manner in this Act mentioned.

25

The following areas situated in a rural district shall be contributory places for the purposes of this Act; that is to say,

(1.) Every parish wholly situated in a rural district:

(2.) In the case of a parish, a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district.

30

Precepts to
overseers.

59. For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them, the rural local authority shall issue their precept to the overseers of each such contributory place requiring such overseers to pay within a time limited by the precept the amount specified in such precept to the rural local authority, or to some person appointed by them.

35

Provision for
part of
parish.

60. Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall, for the purposes of this Act, be deemed to be the overseers of such contributory place.

40

61. The overseers shall comply with the requisitions of such precept by paying the contribution required where the contributory place is an entire parish by the levy on the whole of such parish, and in the case of a contributory place forming part of a parish by the levy on such part thereof, exclusive of the rest of the parish, of a separate rate to be called the special rate in the same manner as if it were a rate for the relief of the poor.

A.D. 1889.

Overseers to
levy special
rate.

62. A special rate under this section shall as respects the power of the overseers in relation to making, assessing, and levying such rate, and as respects the appeal against such rate, and all other incidents thereof, except the purpose to which it is applicable, and except the allowance of justices, which shall not be required, be subject to the same provisions as apply in law to a rate levied for the relief of the poor. And the overseers of a parish shall have the same powers of levying such special rate in a contributory place forming part of their parish as they would have if such contributory place formed the whole of their parish.

Mode of
making,
assessing,
and levying.

63. The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect any special rate made under this section, and receive out of such special rate such remuneration for the additional duty as the overseers with the consent of the vestry may determine.

Officers.

64. The overseers shall, at the expiration of their term of office, pay any surplus in their hands arising from any special rate levied in pursuance of this Act above the amount for which the rate was made to the rural local authority, or to such person as they may appoint, to the credit of the contributory place within which such rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place for the purpose of defraying the expenses incurred by the rural local authority under this Act.

Disposition
of surplus.

65. If the amount required by any precept of a rural local authority under this Act to be paid by the overseers of any parish is not paid in manner directed by such precept, and within the time therein specified for that purpose, the rural local authority shall have the like remedy for the recovery from the overseers of such amount as is not paid as guardians have for the time being for recovery from overseers of contributions of parishes, and for that purpose the precept of the local rural authority requiring the payment shall be conclusive evidence of the amount thereof.

Remedy
against over-
seers.

A.D. 1889.

Miscellaneous.

Expenses
chargeable
on rates.

66. Expenses incurred or payable by an urban or rural local authority in the execution of this Act shall include the following; that is to say,

- (1.) Expenses of officers, offices, books, stationery, stamps, legal charges, insurances, repairs, and other current expenditure of a like nature : 5
- (2.) Any deficiency whereby the annual net receipts of such local authority fall short of the sums they are annually required to pay to the Treasury for interest, or repayment of instalments of principal of sums advanced to them by the Treasury : 10
- (3.) Any loss incurred within the period covered by any special rate by sale of property acquired at any time by the local authority for the purposes of this Act : 15
- (4.) Any loss or damages incurred or payable within the period covered by any special rate by reason of obligations under any contract or guarantee given by the local authority, or any judgment or decree made against them in the execution of the powers of this Act : 20

But, save as aforesaid, such expenses shall not include any sums spent upon the purchase or improvement of land or buildings where such improvements are of the nature of capital expenditure, or any sums borrowed from the Treasury.

No special rate shall be made except for expenses within the meaning of this section. 25

Condition
of special
rating.

67. Before any special district rate or special rate is made it shall appear to the satisfaction of the local authority that the total annual receipts of such local authority for rent, interest, and other payments in the nature of income, and not in the nature of repayments of capital in respect of their undertaking under this Act, fall short, or are likely to fall short, of their annual expenses as herein-before defined, and such annual receipts shall be applied towards such annual expenses, and such special rate shall be for such difference and the cost of raising the same, and shall not be applied otherwise. Any surplus remaining in the hands of the local authority shall be applied as follows :— 30

- (1.) If there have been in previous years any special district rate or rates under this Act, the said surplus shall be first applied in relief of the general rates of such district to the amount of such special district rate or rates : 35 40

(2.) Any surplus after such first application shall be applied A.D. 1889.
towards the creation of a sinking fund or otherwise for the
repayment of any sums due under this Act to the Treasury by
the local authority :

5 (3.) For the general purposes of this Act.

68. Rules prescribing forms and other matters of procedure for Rules.
the carrying out of this Act, and scales of costs to be allowed, may
be made from time to time by the Lord Chancellor, and shall have
like force as if they were incorporated in this Act.

THE SCHEDULE.
REGISTER OF SMALL HOLDINGS.
LOCAL AUTHORITY—Board of Guardians of Battle, in the County of Sussex.
Original Creation of Holding.

NUMBER OF HOLDINGS ON PLAN.	DESCRIPTION OF HOLDING.	MODE AND DATE OF CREATION OF HOLDING.	NAME AND ADDRESS OF FIRST REGISTERED OWNER.	STATE AND CONDITIONS OF DEBT TO LOCAL AUTHORITY.
3	29a, 1r. 2p. in parish of Battle and county of Sussex, bounded on N. by Brighton Road, on S. by holding 4 on plan, on E. by water meadow, on W. by High Wood.	Sale by local authority to John Brown, dated 1 July 1888.	John Brown, Boyne House, Battle, Sussex.	600l. due to local authority at 3½ per cent interest.

Changes in Title to Holding, and Notices.

NUMBER OF HOLDING ON PLAN.	DATE OF REGISTRATION OF CHANGE.	DESCRIPTION OF CHANGE.	MANNER IN WHICH CHANGE IS EFFECTED.	NAME AND ADDRESS OF PERSON ACQUIRING INTEREST BY CHANGE.	NATURE OF INTEREST ACQUIRED.	CAVEATS.	PAYMENTS OF INTEREST HALF-YEARLY.
3	1 Dec. 1886	Mortgage by John Brown to Thomas Smith.	Deed, dated 1 Dec. 1886.	Thomas Smith, 1, Walbrook, London, E.C.	Mortgage to secure 190l. at 5 per cent. interest.	Caveat, entered 1 May 1892, by William Freeman, of 1, Alpha Street, Birmingham, against Thomas Smith, dealing with his interest in the holding.	1 Jan. 1887, 10l. 10s. interest. 1 July 1887, 10l. 10s. interest. 1 Jan. 1888, 10l. 10s. interest. 1 July 1888, 10l. 10s. interest. 1 Jan. 1889, 10l. 10s. interest. 1 July 1889, 10l. 10s. interest. 1 Jan. 1890, 10l. 10s. interest. 1 July 1890, 10l. 10s. interest. 1 Jan. 1891, 10l. 10s. interest. 1 July 1891, 10l. 10s. interest. 1 Jan. 1892, 10l. 10s. interest. 1 July 1892, 10l. 10s. interest. 1 Jan. 1893, 10l. 10s. interest. 1 July 1893, 10l. 10s. interest. 1 Jan. 1894, 10l. 10s. interest. 1 July 1894, 10l. 10s. interest. 1 Jan. 1895, 10l. 10s. interest.
3	1 Aug. 1888	Transfer pursuant to order of Court, dated 1 July 1888.	Deed, dated 1 Aug. 1888.	Thomas Smith, 1, Walbrook, London, E.C.	Equity of redemption of registered mortgage, dated 1 Dec. 1886.	Caveat of William Freeman, of 1, Alpha Street, Birmingham, removed by order of Battle County Court, dated 1 Oct. 1892. Registered 3 Oct. 1892.	1 Jan. 1887, 10l. 10s. interest. 1 July 1887, 10l. 10s. interest. 1 Jan. 1888, 10l. 10s. interest. 1 July 1888, 10l. 10s. interest. 1 Jan. 1889, 10l. 10s. interest. 1 July 1889, 10l. 10s. interest. 1 Jan. 1890, 10l. 10s. interest. 1 July 1890, 10l. 10s. interest. 1 Jan. 1891, 10l. 10s. interest. 1 July 1891, 10l. 10s. interest. 1 Jan. 1892, 10l. 10s. interest. 1 July 1892, 10l. 10s. interest. 1 Jan. 1893, 10l. 10s. interest. 1 July 1893, 10l. 10s. interest. 1 Jan. 1894, 10l. 10s. interest. 1 July 1894, 10l. 10s. interest. 1 Jan. 1895, 10l. 10s. interest.
3	1 Dec. 1894	Transfer by intestacy of Thomas Smith to administrators.	Intestacy of Thomas Smith.	Henry Thompson and George Thompson, both of 1, Adelaide Road, Brighton.	Fee simple of holding.		1 Jan. 1887, 10l. 10s. interest. 1 July 1887, 10l. 10s. interest. 1 Jan. 1888, 10l. 10s. interest. 1 July 1888, 10l. 10s. interest. 1 Jan. 1889, 10l. 10s. interest. 1 July 1889, 10l. 10s. interest. 1 Jan. 1890, 10l. 10s. interest. 1 July 1890, 10l. 10s. interest. 1 Jan. 1891, 10l. 10s. interest. 1 July 1891, 10l. 10s. interest. 1 Jan. 1892, 10l. 10s. interest. 1 July 1892, 10l. 10s. interest. 1 Jan. 1893, 10l. 10s. interest. 1 July 1893, 10l. 10s. interest. 1 Jan. 1894, 10l. 10s. interest. 1 July 1894, 10l. 10s. interest. 1 Jan. 1895, 10l. 10s. interest.

Small Holdings.

A

B I L L

To give facilities for the Creation of
Small Holdings of Land.

*(Prepared and brought in by
Mr. Jene Collings, Mr. Robert Reid, Mr. Burt,
Sir H. Selwyn-Ibbotson, Mr. Broadhurst,
Colonel Cotton, Mr. Flower, Mr. Pitt-Lewis,
and Mr. Newman.)*

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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[*Price 3d.*]

[Bill 29.]

A

B I L L

TO

Remove the Disabilities of Soldiers and Sailors to be registered as Voters at Parliamentary Elections. A.D. 1889.

WHEREAS it is inexpedient that any person otherwise entitled to be registered as a voter at a parliamentary election should be incapacitated from being so registered by reason only of his temporary absence from his qualifying premises whilst employed on duty in or in connexion with Her Majesty's forces :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

10 1. Every person subject to military laws as defined in Part V. of the Army Act, 1881, and every person subject to the Naval Discipline Act, and every person subject to military or naval laws and regulations, otherwise entitled to be registered as a voter at parliamentary elections in respect of the occupation of a dwelling-
15 house, shall be deemed an inhabitant occupier thereof as tenant, notwithstanding his temporary absence therefrom in the execution of his duty while subject as aforesaid during a part of the qualifying period not exceeding four consecutive months.

44 & 45 Vict.
c. 58.
Registration
in case of
temporary
absence on
duty.
29 & 30 Vict.
c. 109.
47 & 48 Vict.
c. 39.

20 2. Every such person shall be entitled to attend and take part in any political meeting under such regulations as Her Majesty shall from time to time prescribe.

Right to
attend
political
meetings.

3. This Act may be cited as the Soldiers and Sailors Disabilities Removal Act, 1889.

Short title.

Soldiers and Sailors Disabilities Removal.

A

B I L L

To remove the Disabilities of Soldiers
and Sailors to be registered as Voters
at Parliamentary Elections.

(Prepared and brought in by
*Mr. Jeffreys, Mr. Mowbray, Mr. Whitmore,
and Mr. Howard Vincent.*)

*Ordered, by The House of Commons, to be Printed,
22 February 1889.*

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[Under 1 oz. Price 4d.]

[Bill 24.]

A
B I L L

FOR

The Repeal of Solicitors Annual Certificate Duty.

A.D. 1889.

WHEREAS by an Act passed in the sixteenth and seventeenth years of the reign of Her Majesty Queen Victoria, intituled "An Act to repeal certain Stamp Duties and to grant others in lieu thereof, to give Relief with respect to the Stamp Duties on
5 " Newspapers and Supplements thereto, to repeal the duty on " Advertisements, and otherwise to amend the Laws relating to " Stamp Duties," certain stamp duties specified and contained in a schedule to the said Act annexed were granted and made payable in Great Britain and Ireland for or in respect of (amongst other
10 things) certificates to be taken out yearly by every person admitted as an attorney or solicitor in any of Her Majesty's courts at Westminster, or in Ireland, or in any other court in England, holding pleas where the debt or damage amounts to forty shillings; and by every person admitted as a writer to the signet, or as a
15 solicitor, agent, attorney, or procurator in any of the courts in Scotland; and by every person admitted or enrolled as a notary public in England, Scotland, or Ireland, who in his own name or in the name of any other person shall commence, prosecute, carry on, or defend any action, suit, prosecution, or other proceeding in any
20 of the courts aforesaid, or do any notarial act whatever, for or in expectation of any fee, gain, or reward, as an attorney, solicitor, agent, proctor, procurator, or notary public, although not admitted or enrolled as such:

Preamble.
16 & 17 Vict.
c. 63.

And whereas it is expedient that the said duties should be
25 repealed:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same:

30 1. From and after the *passing of this Act* the duties aforesaid shall cease and be no longer paid or payable.

2. Any person who shall be admitted or enrolled a solicitor of the Supreme Court of Judicature in England or of the Supreme
[Bill 122.]

Duties on
annual certifi-
cates to be
taken out by
solicitors
repealed.

Every person
admitted a
solicitor shall

A

A.D. 1889. Court of Judicature in Ireland shall, before he shall act as a solicitor, or as such solicitor shall sue out any writ or process, or commence, carry on, solicit, or defend any action, suit, or other proceeding in the name of any other person or in his own name in the Supreme Court of Judicature in England, or in the Supreme Court of Judicature in Ireland, or in any county court, or in any court of civil or criminal jurisdiction in the United Kingdom of Great Britain or Ireland, or act as a solicitor in any cause, matter, or suit, civil or criminal, to be heard, tried, or determined in either of the Houses of Parliament, or before any justice of assize of oyer and terminer or gaol delivery, or at any general or quarter sessions of the peace for any county, riding, division, liberty, city, borough, or place, or before any justice or justices, or before any commissioners of Her Majesty's revenue, obtain from the registrar of solicitors a certificate of his being duly enrolled as a solicitor.

—
take out a
certificate of
his admis-
sion.

Registrar of
solicitors to
keep a roll.

3. From and after the *passing of this Act* there shall be a registrar of solicitors, and it shall be the duty of such registrar to keep an alphabetical roll or book, or rolls or books, of all solicitors, and to issue annually to persons who have been admitted and enrolled as solicitors certificates entitling them to practise as such; and it shall and may be lawful to and for the Lord Chancellor, or any judge of the Supreme Court of Judicature in England, or the Lord Chancellor, or any judge of the Supreme Court of Judicature in Ireland, to make such orders, directions, and regulations touching the performance and execution of the duties aforesaid as they shall think proper. And such registrar, or some person duly appointed by him, shall have free access to, and shall be at liberty from time to time to examine and take copies or extracts without fee or reward of, all rolls or books kept for the enrolment of solicitors in any of the divisions of the Supreme Court of Judicature in England or of the Supreme Court of Judicature in Ireland; and that the duties of such office of registrar shall be performed as in manner provided and directed by an Act passed in the session of Parliament held in the sixth and seventh years of the reign of Her present Majesty, intituled "An Act for consolidating and amending several of the Laws relating to Attornies and Solicitors practising in England and Wales," and in manner provided and directed by another Act passed in the session of Parliament held in the twenty-ninth and thirtieth years of the reign of Her present Majesty, intituled "An Act to amend the Laws for the Regulation of the Profession of Attorneys and Solicitors in Ireland, and to assimilate them to those in England."

6 & 7 Vict.
c. 73.

29 & 30 Vict.
c. 84.

4. For the purpose of obtaining such registrar's certificate as
aforesaid, a declaration in writing signed by such solicitor or by his
partner, or in case such solicitor shall reside more than twenty miles
from London, or more than twenty miles from Dublin, then by his
5 London agent, or by his Dublin agent, on his behalf, containing his
full name and place of residence, together with the term and
year in or as of which he was so admitted, shall be delivered to the
said registrar annually, who shall cause all the particulars in such
declaration to be entered in a proper book to be kept for that
10 purpose, which shall be open to the inspection and examination of
all persons without fee or reward; and the said registrar shall, after
the expiration of six days after the delivery of such declaration
(unless he shall see cause and have reason to believe that the party
applying for such certificate is not upon the said roll of solicitors),
15 deliver to the said solicitor or his agent on demand, and upon
payment of the sum of *ten shillings* annually, a certificate in the
form or to the effect set forth in the schedule to the Act annexed.

A.D. 1889.

On applica-
tion for a
certificate
a declaration
to be signed
and entered
in a book.

5. And be it enacted that in case the said registrar shall decline
to issue such certificate as he is herein-before directed and required
20 to give, the party so applying for the same, if a solicitor, shall and
may apply to any judge of any of the divisions of the Supreme
Court of Judicature in England or in Ireland, who is hereby
authorised to make such order in the matter as shall be just, and
to order payment of costs by and to either of the parties if he shall
25 see fit.

On regis-
trar's refusal
to issue cer-
tificate
application
to be made
to court.

6. And whereas some of the provisions of the aforesaid Act of
the sixth and seventh years of the reign of Her Majesty, and of the
Act of the sixteenth and seventeenth years, and of the twenty-ninth
and thirtieth years of said reign, are no longer necessary, and
30 ought to be repealed: Be it therefore enacted that such of the
provisions of the said recited Acts with respect to certificates as are
repugnant to or inconsistent with the provisions of this Act shall be
and the same are hereby repealed.

Repeal of such
of the provi-
sions of
6 & 7 Vict.
c. 73. and
29 & 30 Vict.
c. 84. relating
to certificates
as are incon-
sistent with
this Act.

7. All Acts which by any law now in force are required to be
35 done by a solicitor having obtained a stamped certificate shall be
valid and effectual if done by a solicitor having obtained a certificate
under this Act, and that the obtaining of a certificate under the
provisions of this Act by any solicitor shall be deemed to be a
compliance with the provisions of any law now in force requiring
40 such solicitor to take out a stamped certificate.

Certificate
under this
Act equiva-
lent to a
stamped
certificate.

8. This Act may be cited as the Solicitors Annual Certificate Title of Act.
Duty Repeal Act, 1889.

A.D. 1889.

SCHEDULE to which the foregoing Act refers.**FORM OF REGISTRAR'S CERTIFICATE.**

No.

18 .

Pursuant to an Act passed in the session of Parliament held in the and years of the reign of Queen Victoria, 5
 intituled "An Act to repeal the Solicitors Annual Certificate
 Duty," I, *A.B.*, registrar of solicitors appointed under the said
 Act (or I, *C.D.*, secretary of the society of solicitors, proctors,
 and others, not being barristers, practising in the Courts of Law
 and Equity of the United Kingdom, authorised to perform the 10
 duties of the office of registrar of solicitors under the said Act), do
 hereby certify that *E.F.*, of , hath this day delivered
 and left with me a declaration in writing, signed by the said *E.F.*
 (or by *G.H.*, his partner, or by *I.K.*, his London or Dublin agent,
 on his behalf), containing his name and place of residence, and the 15
 court or one of the courts of which he is admitted a solicitor,
 together with the term and year in or as of which he was so admitted.
 And I do further certify that the said *E.F.* is duly enrolled a
 solicitor in the High Court of Chancery, and is entitled to practise
 as a solicitor. 20

In witness whereof I have this day of in
 the year 18 set my hand hereunto.

VICT.]

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E.F.
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in

**Solicitors Annual
Certificate Duty Repeal.**

A

B I L L

For the Repeal of Solicitors Annual
Certificate Duty.

*(Prepared and brought in by
Mr. O'Heu, Mr. Arthur O'Connor,
Mr. Sexton, Mr. M'Cartan, and Mr. O'Keefe.)*

*Ordered, by The House of Commons, to be Printed,
26 February 1889.*

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[Under 1 oz. Price 1d.]

[Bill 122.]

Solicitors (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Clause.

1. Short title.
2. Extent of Act.
3. Commencement of Act.
4. Interpretation of terms.
5. Registrar of solicitors.
6. No person to act as a solicitor unless admitted and enrolled.

Terms of Apprenticeship.

7. Admission to apprenticeship.
8. No person to be admitted a solicitor unless he shall have served an apprenticeship of five years.
9. Persons having taken degrees at certain universities may be admitted after three years service.
10. Persons having been at the bar may be admitted after three years service.
11. Provision for admission of University graduates after four years apprenticeship.
12. Persons attending certain lectures and passing certain examinations in faculty of law during two collegiate years may be admitted after four years service.
13. Persons having been bonâ fide clerks to solicitors for seven years may be admitted after three years service.
14. Where the three, four, or five years expire in any vacation, examination may take place in sittings preceding such vacation.
15. Certain apprentices not required to attend lectures, &c.
16. Preliminary examination to be dispensed with in certain cases.
17. Affidavit to be made and filed within six months of execution of articles and the articles to be enrolled. If not filed within six months the service to reckon from the day of filing, unless, &c.
18. Affidavit to be produced on applying for admission.

[Bill 92.]

Clause.

19. Book to be kept for entering the substance of affidavits with the names, &c. of solicitor and apprentice, &c., which may be searched.
20. No solicitor to take or retain any apprentice after discontinuing business, nor whilst clerk to another solicitor.
21. In case solicitors become bankrupt or insolvent or be imprisoned, indentures to be discharged or assigned.
22. Disqualification of solicitor not to affect service of apprentice.
23. Applications for striking solicitors off the roll for defect in indentures, &c. to be made within twelve months of admission.
24. Apprentices whose masters have died or left off practice may enter into fresh indentures for the residue of their term.
25. Power to judge to order assignments under last section.
26. Indentures of apprenticeship to be produced to the registrar and entered within three months from enrolment.
27. Apprentices before admission to make affidavit of having served. Apprentices may hold offices or engage in employment in certain cases. Lord Chancellor's order. Notice of application to be given to Incorporated Law Society. Lord Chancellor may attach conditions to order. Proof of compliance with conditions.

Examinations.

28. Admission of solicitor.
29. Certificate of having passed examinations requisite for admission of solicitor.
30. Examinations to be held under management of Incorporated Law Society.
31. Fees payable to Incorporated Law Society in respect of examinations.
32. No fees to be payable by apprentices, &c. other than those authorised by this Act.
33. Appeal to Lord Chancellor against refusal of certificate.

The Roll of Solicitors.

34. The clerk of records and writs to have the care of the rolls. Names of solicitors to be enrolled in alphabetical order.
35. Clerk of records and writs to transmit copies to registrar.

Clause.

36. Persons duly admitted in one court capable of practising in all other courts on signing rolls of other courts.
37. Rule for striking solicitors off the roll to be entered with the registrar.
38. Notice to be given to registrar of applications to strike names of solicitors off the roll. Copies of affidavits to accompany notice. Court not to entertain application except on proof of notice, &c. Registrar may appear on application, &c.
39. Registrar may apply to make up rules and orders not drawn up by applicants.
40. A solicitor struck off the roll of one of the courts to be struck off the rolls of other courts.

Solicitors Certificates.

41. Register of solicitors to be kept.
42. Commissioners of Stamps not to grant any certificate until registrar has certified that the person applying is entitled thereto.
43. On application for a certificate a declaration to be signed and entered in a book.
44. Registrar's certificates on payment of duty to be deemed the stamped certificates.
45. For determining amount of stamp duty, place of business to be deemed place of residence.
46. The declaration on applying for the registrar's certificate to be in duplicate, and one copy to be left with the Commissioners.
47. On registrar's refusal application to be made to court.
48. Certificate to be entered with the registrar, the Commissioners to supply particulars when stamped.
49. Date and determination of certificate.
50. No costs recoverable by unqualified person.
51. In case of neglect to obtain a stamped certificate application to be made to the court.

Penalties.

52. Solicitors not to act for unqualified persons, &c.
53. Penalty for wrongfully acting as a solicitor.

Clause.

- 54. Penalty for wrongfully acting as solicitor. Offences may be prosecuted before a court of summary jurisdiction.
- 55. Act not to extend to examination, &c. of solicitors to public departments.

Miscellaneous Provisions.

- 56. Authentication of regulations and other documents.
- 57. Construction of enactments referring to attorneys and examinations.
- 58. Substitution of provisions of this Act for repealed provisions.

Temporary Provision and Repeal.

- 59. Temporary provision as to examinations.
- 60. Repeal of 29 & 30 Vict. c. 84.

SCHEDULES.

A
B I L L

TO

Amend the Law for the Regulation of the Profession of
Solicitors in Ireland.

A.D. 1889.

WHEREAS it is expedient to amend and consolidate the laws relating to solicitors, and to the service of indentured apprentices to solicitors in Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty,
5 by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

- | | | |
|----|---|-------------------------------|
| 1 | 1. This Act may be cited as the Solicitors (Ireland) Act, 1889. | Short title. |
| 10 | 2. This Act shall extend to Ireland only. | Extent of Act. |
| 15 | 3. This Act shall, so far as regards the power of the Lord Chancellor and certain of the judges of Her Majesty's High Court of Justice in Ireland and of the Incorporated Law Society to make regulations hereunder, and so far as regards the issue of notices and other proceedings preliminary to holding the first examinations hereunder, come into operation on the <i>passing hereof</i> , and for all other purposes shall come into operation on the <i>first day of January one thousand eight hundred and ninety</i> . | Commencement of Act. |
| 20 | 4. In this Act "Lord Chancellor" means the Lord Chancellor of Ireland, and shall include Lords Commissioners, and Lord Keeper of the Great Seal of Ireland. | Interpretation of terms. |
| | "Supreme Court" means the Supreme Court of Judicature in Ireland : | 29 & 30 Vict.
c. 84. s. 1. |
| | "Solicitor" means solicitor of the Supreme Court : | |
| 25 | "Registrar" means the registrar of solicitors : | |
| | "Roll of solicitors kept by the registrar" means the roll or book, rolls or books, of solicitors, which by this Act the registrar is required to keep : | |

[Bill 92.]

A

A.D. 1889. — “The Incorporated Law Society” means “the Incorporated Law Society of Ireland” acting under their present or any future charters :

“The clerk of records and writs” means the clerk of the records and writs of the Chancery Division of the High Court of Justice in Ireland, and includes such other person or persons as the Lord Chancellor may from time to time appoint to perform any of the duties by this Act directed to be performed by the clerk of records and writs :

40 & 41 Vict.
c. 25. s. 4. “Preliminary examination” means an examination in general knowledge of persons seeking to become bound under indentures of apprenticeship to solicitors :

“Intermediate examination” means an examination of persons bound under indentures of apprenticeship to solicitors in order to ascertain the progress made by such persons during their apprenticeship in acquiring the knowledge necessary for rendering them fit and capable to act as solicitors :

“Final examination” means an examination of persons applying to be admitted as solicitors as well touching the indentures of apprenticeship and service as the fitness and capacity of such persons to act as solicitors in all business and matters usually transacted by solicitors, and includes, where any allegation is made by the registrar of solicitors as to the moral unfitness of any such person to be an officer of the Supreme Court of Judicature in Ireland, an inquiry into the truth of such allegation :

38 & 39 Vict.
c. 86. s. 21. “Summary Jurisdiction Acts” means, as regards the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and

14 & 15 Vict.
c. 93. any Acts amending the same. 30

Registrar of
solicitors.
29 & 30 Vict.
c. 84. s. 28. 5. There shall be a registrar of solicitors, who shall have the powers and perform the duties by this Act provided, and the office of such registrar shall be vested in the Incorporated Law Society under their present or any future charters of incorporation. 35

No person
to act as a
solicitor un-
less admitted
and enrolled. 6. From and after the commencement of this Act, no person shall act as a solicitor, or as such solicitor sue out any writ or process, or commence, carry on, solicit, or defend any action, suit, or other proceeding, in his own name or in the name of any other person in Her Majesty’s Supreme Court of Judicature in Ireland, or in the Court of Bankruptcy in Ireland, or in the civil bill or county court, Court of the Land Commission or Petty Sessions Courts of 40

any county or riding of a county, or in any court of civil or criminal jurisdiction, in that part of the United Kingdom of Great Britain and Ireland called Ireland, or act as a solicitor in any cause, matter, or suit, civil or criminal, to be heard, tried, or determined before any justice of assize, of oyer and terminer, or gaol delivery, or at any general or quarter sessions of the peace for any county, riding, division, liberty, city, borough, or place, or before any justice or justices, unless such person shall have been admitted and enrolled and otherwise duly qualified to act as a solicitor under or by virtue of the laws now in force, or unless such person shall after the passing of this Act be admitted and enrolled and registered and otherwise duly qualified to act as a solicitor pursuant to the directions and regulations of this Act, and unless such person shall continue to be so duly qualified and registered and on the roll of solicitors at the time of his acting in the capacity of a solicitor as aforesaid, except as herein-after in this Act mentioned.

A.D. 1889.
29 & 30 Vict.
c. 84. s. 3.

Terms of Apprenticeship.

7. Save as herein-after by this Act provided, no person shall be capable of being bound by indentures of apprenticeship to serve as an apprentice to a solicitor unless he shall have obtained from the Incorporated Law Society a certificate that he has passed a preliminary examination and has complied with such regulations as the society under the provisions of this Act may have prescribed with respect to the admission to apprenticeship.

Admission to
apprentice-
ship.

8. No person, save as herein-after by this Act provided, shall from and after the commencement of this Act be capable of being admitted, enrolled, and registered as a solicitor unless such person shall have been bound by indentures of apprenticeship to serve as an apprentice for and during the term of five years to a practising solicitor, and shall have duly served under such indentures for and during the said term of five years, and also unless such person shall, within six months prior to the expiration of the said term of five years, or after the expiration of such term, have been examined as by this Act directed and sworn as by the laws now in force required previous to such admission, enrolment, and registration.

No person to
be admitted
a solicitor
unless he
shall have
served an
apprentice-
ship of five
years.

Do. s. 4.

9. Any person having taken the degree of bachelor of arts or bachelor of laws in the University of Dublin, Oxford, Cambridge, Durham, or London, or any of the Queen's Colleges in Ireland, or the Royal University in Ireland, or the degree of bachelor of arts,

Persons
having taken
degrees at
certain uni-
versities may

A.D. 1889. master of arts, bachelor of laws, or doctor of laws in any of the
 be admitted universities of Scotland (none of such degrees being honorary
 after three degrees), and who at any time after having taken such degree,
 years service. and either before or after the *passing of this Act*, has been bound
 Do. s. 7. by and has duly served under indentures of apprenticeship to a
 practising solicitor for the term of three years, and has been ex-
 amined and sworn as by this Act provided, may be admitted,
 enrolled, and registered as a solicitor.

Persons having been at the bar may be admitted after three years' service.
 Do. s. 8. 10. Every person who either before or after the commencement
 of this Act has been called to the degree of utter barrister in 10
 Ireland, and has procured himself to be disbarred, and has been
 bound by and has duly served under indentures of apprenticeship
 to a practising solicitor for the term of three years, and has been
 examined and sworn as by this Act provided, may be admitted,
 enrolled, and registered as a solicitor. 15

Provision for admission of University Graduates after four years' apprenticeship.
 11. Every person who, after the commencement of his apprentice-
 ship, and previous to his admission as a solicitor, has taken or shall
 take the degree of bachelor of arts in the University of Dublin, in the
 Royal University of Ireland, or in either of the Universities of 20
 Oxford or of Cambridge, and who shall have served under inden-
 tures of apprenticeship to a practising solicitor for the term of four
 years, and has been examined and sworn as by this Act provided,
 may be admitted, enrolled, and registered as a solicitor.

Persons attending certain lectures and passing certain examinations in faculty of law during two collegiate years may be admitted after four years' service.
 Do. s. 9. 12. Every person who, as a matriculated or as a non-matriculated
 student of the University of Dublin or of any of the Queen's 25
 Colleges in Ireland or the Royal University of Ireland, shall
 have attended or shall attend any prescribed lectures, and shall have
 passed or shall pass any prescribed examinations of the professors
 of the faculty of law in the said University of Dublin or in any of
 the Queen's Colleges in Ireland or in the Royal University of 30
 Ireland for a period of two collegiate years, and who shall have
 duly served under indentures of apprenticeship to a practising
 solicitor for the term of four years, and has been examined
 and sworn as by this Act provided, may be admitted, enrolled,
 and registered as a solicitor. 35

Persons having been bonâ fide clerks to solicitors for seven years may be admitted after three years' service.
 13. Any person who, either before or after the *passing of this*
Act, shall for the term of seven years have been a bonâ fide clerk to
 a solicitor or solicitors, and during that term shall have been bonâ
 fide engaged in the transaction and performance, under the direction
 and superintendence of such solicitor or solicitors, of such matters 40
 of business as are usually transacted and performed by solicitors in

person, and who shall produce to the Incorporated Law Society satisfactory evidence that he has faithfully, honestly, and diligently served as such clerk, and who, after the expiration of the said term of seven years, and after having passed a preliminary examination, has been bound by and has duly served under indentures of apprenticeship to a practising solicitor for the term of three years, and has been examined and sworn as by this Act provided, may be admitted, enrolled, and registered as a solicitor.

A.D. 1839.

Do. s. 10.

14. Whenever any of the periods of five, four, and three years service mentioned in this Act shall expire in any vacation, then and in such case any person whose period of apprenticeship shall so expire shall be at liberty to pass his final examination in the sittings immediately preceding the said vacation; and at any time in or after such vacation, and after the said period of apprenticeship shall have expired, such person may be sworn, admitted, enrolled, and registered as a solicitor; provided such person shall be duly qualified pursuant to this Act or any regulations made thereunder and present himself for a final examination.

Where the three, four, or five years expire in any vacation, examination may take place in sittings preceding such vacation.
Sec. 23.

15. No person within the ninth or tenth sections of this Act seeking to become an apprentice to a solicitor shall be required to pass a preliminary examination, and no apprentice within the tenth or thirteenth sections of this Act who shall have served two years or upwards of his apprenticeship in the Dublin office of a solicitor or firm of solicitors, shall be required to attend lectures or keep terms or sittings in Dublin during his apprenticeship.

Certain apprentices not required to attend lectures, &c.

Do. s. 11.

16. The Incorporated Law Society may make regulations providing that any persons who shall have matriculated as students in the University of Dublin, the Royal University, or in any of the Queen's Colleges in Ireland, or in any other university, college, or teaching body in any part of the United Kingdom on an open public examination, shall not be required to pass any preliminary examination under this Act before being bound as an apprentice to a solicitor; and the said Society may from time to time revoke or alter any such regulations.

Preliminary examination to be dispensed with in certain cases.

17. Whenever any person shall after the commencement of this Act be bound by indentures to serve as an apprentice to a solicitor, the solicitor to whom such person shall be so bound shall, within six months after the date of such indentures, make and duly swear or cause or procure to be made and duly sworn, an affidavit of such solicitor having been duly admitted, and also of the actual execution of such indentures by him the said solicitor, and by the person so

Affidavit to be made and filed within six months of execution of articles and the articles to be enrolled.

A.D. 1889.
Do. s. 12.

If not filed
within six
months the
service to
reckon from
the day of
filing, unless
&c.
Do. s. 13.

Affidavit to
be produced
on applying
for admis-
sion.
Do. s. 14.

Book to be
kept for
entering the
substance of
affidavits
with the
names, &c.
of solicitor
and appren-
tice, &c.,
which may
be searched.
Do. s. 15.

No solicitor
to take or
retain any
apprentice
after dis-
continuing
business, nor
whilst clerk
to another
solicitor.
Do. s. 5.

to be bound to serve him as an apprentice as aforesaid; and in such affidavit shall be specified the names of such solicitor, and of such person so bound, and their places of abode respectively, together with the day on which such indentures were actually executed; and such affidavit shall be filed within six months next 5 after the execution of the said indentures with and by an officer appointed for the purpose by the Lord Chancellor, who shall thereupon enrol and register the said indentures, and shall make and sign a memorandum of the day of filing such affidavit upon such affidavit, and also upon the said indentures: Provided always, 10 that in case such affidavit be not filed within such six months, the same may be filed by the clerk of records and writs after the expiration thereof; but the service of such apprentice shall be reckoned to commence and be computed from the day of filing such affidavit, unless the Lord Chancellor shall otherwise order. 15

18. No person who shall after the commencement of this Act become bound as aforesaid shall be admitted a solicitor before such affidavit so marked as aforesaid shall have been produced to the Lord Chancellor, unless he shall be satisfied that the same cannot be produced, and shall think fit to dispense with the production thereof. 20

19. The officer so appointed or to be appointed as aforesaid shall keep a book wherein shall be entered the substance of every affidavit which shall be so filed as aforesaid, specifying the name and place of abode of the solicitor to whom any person shall be bound to serve as an apprentice, of the person who shall be so 25 bound as aforesaid, and of the person making such affidavit, with the date of the indentures in such affidavit mentioned or referred to, and the days of swearing and filing every such affidavit respectively, and such officer shall receive such sum or sums as are now payable for the performance of the before-mentioned duties; and 30 such book shall and may be searched in office hours by any person without fee or reward.

20. No solicitor shall take, have, or retain any apprentice who shall be bound by indentures as aforesaid after such solicitor shall have discontinued or left off practising as or carrying on the 35 business of a solicitor, nor whilst such solicitor shall be retained or employed as a writer or clerk by any other solicitor, and service by any apprentice under indentures to a solicitor for and during any part of the time that such solicitor shall be so employed as writer or clerk by any other solicitor shall not be deemed or accounted as 40 good service under such indentures.

A.D. 1889.

21. In case any solicitor to whom any apprentice shall be bound by indentures as aforesaid shall, before the end or determination of such contract, become bankrupt, or be imprisoned for debt and remain in prison for the space of twenty-one days, it shall be lawful
5 for the Lord Chancellor, upon the application of such apprentice, to order and direct the said indentures to be discharged, or assigned to such person and upon such terms and in such manner as herein-after mentioned, or otherwise as he shall think fit.

In case solicitors become bankrupt or insolvent or be imprisoned, indentures to be discharged or assigned.
Do. s. 6.

22. No person who shall have duly served his apprenticeship
10 under indentures pursuant to the provisions of this Act shall be prevented or disqualified from being admitted and enrolled as a solicitor, nor liable to be struck off the roll if admitted, by reason or in consequence of the solicitor to whom he may have been bound by such indentures having been after such service struck off the roll,
15 provided that such apprentice or person be otherwise entitled to be admitted and enrolled according to the provisions herein-before contained.

Disqualification of solicitor not to affect service of apprentice.
Do. s. 39.

23. No person who has been admitted and enrolled shall be liable to be struck off the roll for or on account of any defect in the
20 indentures of apprenticeship, or in the registry thereof, or in his service under such indentures, or in his admission and enrolment, unless the application for striking him off the roll be made within twelve months from the time of his admission and enrolment, provided that such indentures, registration, service, admission, or
25 enrolment be without fraud.

Applications for striking solicitors off the roll for defect in indentures, &c. to be made within twelve months of admission.
Do. s. 40.

24. If any solicitor to whom any person shall be bound shall happen to die before the expiration of the term for which such person shall be so bound, or shall discontinue or leave off practice as a solicitor, or if such indentures shall by mutual consent of the
30 parties be cancelled, or in case such apprentice shall be legally discharged before the expiration of such term by any rule or order of the Lord Chancellor, such apprentice may in any of the said cases be bound by other indentures or by an assignment of his former indentures to serve as apprentice to any other practising solicitor or
35 solicitors during the residue of the said term; and service under such second or other indentures or under such assignment in manner herein-after mentioned shall be deemed and taken to be good and effectual, provided that an affidavit be duly made and filed of the execution of such second or other indentures, or of such assignment,
40 or of the making of any order under the next section of this Act, within the time and in the manner herein-before directed, and subject to the like regulations with respect to the original indentures

Apprentices whose masters have died or left off practice may enter into fresh indentures for the residue of their term.

Do. s. 16.

A.D. 1889. and affidavit of the execution thereof, in so far as the same respectively are applicable thereto.

Power to judge to order assignments under last section.

25. In the event of any apprentice requiring to have an assignment made of his indentures under the last preceding section, it shall be lawful for the Lord Chancellor, upon application being duly 5 made by or on behalf of such apprentice, and upon being satisfied that a difficulty exists in procuring such assignment to be executed, to order that such indentures shall be transferred to such solicitor as to the Lord Chancellor may seem fit, and upon the making of any such order the said indentures shall be deemed and taken to be 10 absolutely assigned in as full and ample a manner as if an assignment thereof had been duly executed by the person or persons legally entitled to assign the same.

Do. s.

Indentures of apprenticeship to be produced to the registrar and entered within three months from enrolment.
Do. s. 29.

26. The indentures whereby any person shall be bound to serve as an apprentice to any solicitor, and also any assignment thereof, 15 shall, within three months after the same has or have been respectively enrolled and registered pursuant to this Act, be produced to the registrar, who shall enter the names of the parties to and the date of such indenture, and also of such assignment, if any, and the term of service, in a book to be kept for that purpose, and the 20 registrar shall mark such indentures and such assignment, if any, as having been so produced and entered, with the date thereof, and such book shall be open to public inspection during office hours without fee or reward; and in case such indentures and such assignment, if any, be not so produced to and entered by the registrar 25 as aforesaid within such three months as aforesaid, the service of the apprentice shall be reckoned to commence from the date of such production and entry, unless upon an application, of which notice shall be given to the registrar, the Lord Chancellor shall otherwise 30 order.

Apprentices before admission to make affidavit of having served.

27.—(1.) Every person who has been or shall be bound as an apprentice as aforesaid shall, before he is admitted a solicitor according to this Act, prove, by an affidavit of himself and of the solicitor to whom he was bound as aforesaid, to be duly made and filed with the officer so appointed or to be appointed as aforesaid, that 35 he has actually and really served and been employed by such practising solicitor, and that he has not (save as herein-after provided) held any office or engaged in any employment whatsoever other than the employment of apprentice to such solicitor and his partner or partners in the business, practice, and employment of a 40 solicitor during the whole time and in the manner required by the provisions of this Act.

Do. s. 18.

A.D. 1889.

(2.) Any person while so bound as aforesaid may hold any office or engage in any employment, provided that before or after he enters upon the office, or engages in the employment, he has applied for and obtained—

Apprentices may hold offices or engage in employment in certain cases.

5 (a.) The consent thereto in writing of the solicitor to whom he is bound; and

37 & 38 Vict. c. 68. s. 4.

(b.) The sanction thereto of the Lord Chancellor, to be evidenced by his order.

Lord Chancellor's order.

10 (3.) Such order shall not be made except such person shall prove, by an affidavit from the solicitor to whom he is bound, or by such other evidence as shall be satisfactory to the Lord Chancellor, that the holding of such office, or being engaged in such employment, was with the consent of the solicitor to whom he was or is bound, and has not interfered with due service under his indentures of

15 apprenticeship, and the Lord Chancellor shall have power to make any order which he shall think fit as to the service by the person so bound as aforesaid for the remainder of the term of his service, or any part thereof, after the acceptance of such office, or the engagement in such employment, or as to the passing of any examination.

20 (4.) Not less than fourteen days before any such application is made to the Lord Chancellor notice in writing of the application shall be given to the Incorporated Law Society by the applicant, which notice shall state the names and residences of the applicant, and of the solicitor to whom he is bound, and the

25 nature of the office or employment, and the time it is expected to occupy.

Notice of application to be given to Incorporated Law Society.

The society may appear on the hearing of such application, and upon any other proceedings arising out of or in reference to the same.

30 (5.) The Lord Chancellor may in and by such order impose on the applicant such terms and conditions touching the office or engagement and his employment therein as he may think fit.

Lord Chancellor may attach conditions to order.

(6.) Where any terms or conditions shall be so imposed, and the person authorised by the order shall accept the office, or engage in

35 the employment, he shall, before being admitted a solicitor, prove to the satisfaction of the Lord Chancellor and of the Incorporated Law Society that he has duly observed and fulfilled those terms and conditions.

Do. s. 5. Proof of compliance with conditions.

Do. s. 6.

Examinations.

40 28. If the Lord Chancellor is, by a certificate or certificates granted in pursuance of this Act, satisfied with respect to any

Admission of solicitor.

A.D. 1889.
40 & 41 Vict.
c. 25. s. 23.
Schedule,
Part II.

person applying to be admitted a solicitor that such person is duly qualified to be admitted to act as a solicitor, then, and not otherwise, the Lord Chancellor shall administer the requisite oath, and cause such person to be admitted a solicitor of the Supreme Court, and his name to be enrolled as a solicitor of such court, which admission shall be written on parchment and signed by the Lord Chancellor.

Certificate
of having
passed ex-
aminations
requisite for
admission of
solicitor.
40 & 41 Vict.
c. 25. s. 5.

29. Subject to the exemptions allowed by this Act, or by regulations made under the authority thereof, no person shall be admitted as a solicitor unless he has obtained from the Incorporated Law Society a certificate or certificates to the effect that he has passed a preliminary, an intermediate, and a final examination, and has complied with such regulations as the society under the provisions of this Act may from time to time prescribe.

Examina-
tions to be
held under
management
of Incorpo-
rated Law
Society.

30. The Incorporated Law Society are hereby authorised and required to hold, at least three times in the year commencing with the *first day of January one thousand eight hundred and ninety*, and in every succeeding year, a preliminary examination, an intermediate examination, and a final examination; and the society shall, subject to the provisions of this Act, have the entire management and control of all such examinations, and shall have power from time to time to make regulations with respect to all or any of the following matters; (that is to say,) 15

Do. s. 6.

- (A.) With respect to the admission to apprenticeship, the attendance of apprentices at lectures, and other matters connected therewith; 25
- (B.) With respect to the subjects for and the mode of conducting the examination of candidates; and
- (C.) With respect to the times and places of examination and the notices of examinations; and 30
- (D.) With respect to the certificates to be given to persons of their having passed any examination; and
- (E.) With respect to the appointment and removal of examiners and professors of law, and with respect to the remuneration by fees or otherwise of the examiners or professors of law so appointed; and 35
- (F.) With respect to any other matter or thing as to which the society think it expedient to make regulations for the purpose of carrying this section into execution.

Any regulation made under the authority of this section may be altered or revoked by a subsequent regulation; and copies of all regulations made under the authority of this section shall be 40

transmitted to the Lord Chancellor and the presidents of the Queen's Bench Division, and the Exchequer Division of the High Court of Justice in Ireland, and to the Master of the Rolls, and if within twenty-eight days after a copy of any regu-

A.D. 1889.

5 lation has been so transmitted, any three of those judges, or any two of them in the event of the office of President of the Exchequer Division ceasing to exist (the Lord Chancellor being one), signify by writing under their hands, addressed to the president or secretary of the society, their dissent from such regulation or any part
10 thereof, the same shall be of no force or effect; and if after any such regulation or any part thereof has come into force, any three of those judges, or any two of them in the event aforesaid (the Lord Chancellor being one), shall signify in manner aforesaid their dissent from such regulation or any part thereof the same shall, at
15 the expiration of two months, cease to be of any force or effect.

31. Any person applying for leave to be bound apprentice to a solicitor, or to be examined or re-examined at a final examination shall pay to the Incorporated Law Society such fees (and in such proportions and at such times) as are specified in the First
20 Schedule to this Act, or such other fees as may from time to time be determined by regulations to be made by the Lord Chancellor and the presidents of the Queen's Bench Division, and the Exchequer Division of the High Court of Justice in Ireland, the Master of the Rolls, and the President of the Incorporated Law
25 Society for the time being, or any two of them, of whom the Lord Chancellor shall be one.

Fees payable to Incorporated Law Society in respect of examinations.

Do. s. 8.

All expenses to be from time to time incurred by the society with reference to such examinations, and with reference to the lectures, classes, and other teaching provided by the society from
30 time to time for persons bound or about to be bound under indentures of apprenticeship to solicitors shall be paid by the society out of such fees.

32. From the commencement of this Act no fees other than those specified in the said First Schedule to this Act, or such other
35 fees as may be authorised by regulations so to be made in pursuance of this Act shall be payable by any person seeking to be bound as an apprentice as aforesaid, or by any person seeking to be admitted and enrolled as a solicitor of the Supreme Court of Judicature in Ireland.

No fees to be payable by apprentices, &c. other than those authorised by this Act. 29 & 30 Vict. c. 84. s. 49.

40 33. Any person who has been refused a certificate of having passed an intermediate or final examination, and who objects to

Appeal to Lord Chancellor against

A.D. 1889. refusal of certificate. 40 & 41 Vict. c. 25. s. 9. such refusal, shall be at liberty within one month next after such refusal to appeal by petition in writing to the Lord Chancellor against such refusal, such petition to be presented in such manner and subject to such regulations as the Lord Chancellor may from time to time direct.

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In the meantime and until the Lord Chancellor otherwise directs, such petition shall be presented at the office of the secretary to the Lord Chancellor without the payment of any fee, and a copy of such petition shall be left therewith and shall be delivered by the secretary to the Lord Chancellor to the secretary of the Incorporated Law Society, and the secretary to the Lord Chancellor shall also notify to such secretary of the Incorporated Law Society the day appointed for the hearing of the petition, and the same shall be heard by the Lord Chancellor on such day after the expiration of fourteen days from the day on which such petition was presented and at such time as he may appoint.

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On the hearing of any petition under this section the Incorporated Law Society may appear, and the Lord Chancellor may make such order as to him may seem meet, and where any person who has been refused a certificate of having passed his final examination, on appeal to the Lord Chancellor, obtains an order for his admission, such order shall entitle him to a certificate from the Incorporated Law Society of his fitness and capacity to act as a solicitor, and in the usual business transacted by a solicitor, in the same manner as if he had passed his final examination.

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The Roll of Solicitors.

The clerk of records and writs to have the care of the rolls.

Names of solicitors to be enrolled in alphabetical order.

29 & 30 Vict. c. 84. s. 26.

Clerk of records and writs to transmit copies to registrar.

34. From and after the commencement of this Act the clerk of records and writs shall have the custody and care of the rolls or books wherein persons are enrolled as solicitors, and such clerk of records and writs is hereby required from time to time, without fee or reward, to enrol the name of every person who shall be admitted a solicitor pursuant to the directions in this Act, and the time when admitted, in alphabetical order in rolls or books to be kept for that purpose, to which rolls or books all persons shall and may have free access during office hours without fee or reward.

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35. The clerk of records and writs shall, within seven days after the end of every sittings, transmit to the registrar, at the expense of such registrar, a copy under the hand of such clerk of records and writs of the rolls or books, wherein persons are enrolled

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as solicitors, so far as the same relates to solicitors enrolled within such sittings. A.D. 1889.

36. Every person who shall have been duly admitted a solicitor of the Supreme Court shall be entitled, upon the production of his admission therein, or an official certificate thereof, and that the same still continues in force, to be admitted as a solicitor in any other court in Ireland, upon signing the roll of such other court, where any such roll exists, but not otherwise, and shall thereupon be entitled to practise as a solicitor therein in like manner as if he had been sworn in and admitted a solicitor of such court; provided always, that no additional fee besides those payable by virtue of this Act shall be demanded or paid.

Persons duly admitted in one court capable of practising in all other courts on signing rolls of other courts.

Do. s. 38.

37. Where the name of any solicitor is ordered to be struck off the roll of solicitors on his own application or on the application of any other person, the rule or order for that purpose shall forthwith, and before the same is acted upon, be produced to the registrar, and the registrar shall enter a note or minute of such rule or order in connexion with the name of such solicitor on the roll of solicitors kept by the registrar, and shall strike such name off such roll, and shall mark such rule or order as having been entered.

Rule for striking solicitors off the roll to be entered with the registrar. Do. s. 44.

38. (1.) Where application is intended to be made to any court for a rule or order to strike the name of any solicitor (not being the solicitor making the application) off the roll of solicitors of such court, or for an order or rule to compel him to answer the matters of an affidavit, notice in writing shall be given to the registrar of such intended application fourteen clear days at the least before such application shall be made.

Notice to be given to registrar of applications to strike names of solicitors off the roll. 37 & 38 Vict. c. 68. s. 7.

(2.) Copies of all affidavits intended to be used in support of such application shall be delivered to the registrar with the notice.

Copies of affidavits to accompany notice. Do. s. 8.

30 (3.) The court shall not entertain any such application, except upon production of an affidavit proving that the notice required by this Act has been duly given, and that copies of all such affidavits have been duly delivered to the registrar.

Court not to entertain application except on proof of notice, &c. Do. s. 9.

35 (4.) The registrar may appear by counsel upon the hearing of any such application, and upon any other proceedings arising out of or in reference to the application, and may apply to the court to make absolute any rule nisi which may have been granted by the court in the matter of such application, or to make an order that the name of the solicitor be struck off the roll of solicitors of the said court, or, as the case may be, to order the solicitor to answer the matters of the affidavit, or such other order as to the court may seem fit;

Registrar may appear on application, &c. Do. s. 10.

A.D. 1889. and it shall be lawful for the court to order the costs, charges, and expenses of the registrar of or relating to any of the matters aforesaid to be paid by the solicitor against whom any such application is made or was intended to be made, or by the person by or on whose behalf the application is made or was intended to be made, or partly by the one and partly by the other of them. 5

Registrar may apply to make up rules and orders not drawn up by applicants.

Do. s. 11.

39. Where any court or any judge of any court shall, upon motion, have ordered or directed a rule (whether nisi or absolute) or order to be drawn up for striking the name of any solicitor off the roll of solicitors of such court, or for compelling a solicitor to answer the matters of an affidavit, and such rule shall not have been drawn up by or on behalf of the person applying for the same within one week after the order or direction for drawing up the same shall have been made or given, it shall be lawful for the registrar to cause the rule or order to be drawn up, and all future proceedings thereupon shall be had and taken as if the application for the rule or order had in the first instance been made to the court by the registrar. 15

A solicitor struck off the roll of one of the courts to be struck off the rolls of other courts.

29 & 30 Vict. c. 84. s. 45.

40. The name of every person hereafter struck off the roll of solicitors of the Supreme Court, or suspended for a time from practising therein, shall, upon production of an office copy of the rule or order whereby he was so struck off or suspended, and an affidavit of the identity of the person named therein, to the proper officer of every or any other court of which such person is a solicitor, be struck off the roll of such court, or suspended for the time mentioned in such rule or order from practising therein; and in case any such person be at any time thereafter restored to the roll, or permitted to resume practising therein, by the order of any judge of the Supreme Court, he shall, upon production of an office copy of the rule or order so restoring him, with an affidavit of the identity of the person named therein, to the proper officer of every or any such other court, be restored to the roll thereof, or permitted to resume practising therein, without payment of any fee or fine whatsoever. 30

Solicitors Certificates.

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Register of solicitors to be kept.

41. It shall be the duty of the registrar of solicitors to keep an alphabetical roll or book or rolls or books of all solicitors, to be called the register of solicitors, and to issue certificates of persons who have been admitted and enrolled as solicitors when required so

to do; and such registrar or some person duly appointed by him shall have free access to and shall be at liberty from time to time to examine and take copies or extracts, without fee or reward, of all rolls or books kept for the enrolment of solicitors in Her Majesty's Supreme Court of Judicature in Ireland. A.D. 1889.

42. It shall not be lawful for the Commissioners of Inland Revenue or any of their officers, save as herein-after mentioned, to grant or issue to any person any stamp upon a certificate authorising such person to practise as a solicitor, but every person desiring to obtain such stamped certificate shall deliver to the said Commissioners or their proper officer, at the Head Office of Inland Revenue in Dublin, a certificate from such registrar as aforesaid that such person is a solicitor, and entitled to a stamped certificate, and such registrar's certificate shall be thereupon stamped with the proper amount of duty payable thereon, and shall have the same force and effect as the stamped certificate heretofore issued under the Attorneys and Solicitors Act (Ireland), 1866. Commis-
sioners of
Stamps
not to grant
any certifi-
cate until
registrar has
certified that
the person
applying is
entitled
thereto.
Do. s. 30.

43. For the purpose of obtaining such registrar's certificate as aforesaid a declaration in writing, in the form in the Third Schedule to this Act, signed by such solicitor or by his partner, or by his Dublin agent, being a solicitor, on his behalf, containing his name and place of residence, and the court of which he is then admitted a solicitor, together with the sittings or term and year in or as of which he was so admitted, shall be delivered to the said registrar, who shall cause all the particulars in such declaration to be entered in a proper book to be kept for that purpose, which shall be open to the inspection and examination of all persons without fee or reward; and the said registrar shall, within six days after the delivery of such declaration (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the said roll of solicitors), deliver to the said solicitor, or to his agent as aforesaid, on demand, a certificate in the form set forth in the Second Schedule to this Act annexed, and which last-mentioned certificate shall be delivered to the Commissioners of Inland Revenue as herein-before directed for the purpose of being stamped. 29 & 30 Vict.
c. 84.
On appli-
cation for
certificate a
declaration
to be signed
and entered
in a book.
Do. s. 31.

44. The stamp duties chargeable on such certificates shall be denoted upon the registrar's certificates, and upon any such certificate being stamped accordingly, and the date of the payment of the duty certified by the proper officer by writing under his hand, or by other sufficient means, the same shall be and be deemed the proper stamped certificate required by law to be taken out by the solicitor named therein. Registrar's
certificates
on payment
of duty to
be deemed
the stamped
certificates.
Do. s. 32.

A.D. 1889.

For determining amount of stamp duty, place of business to be deemed place of residence.
Do. s. 33.

45. For determining the rate of stamp duty payable on the certificate, the place or places where the solicitor shall carry on his business shall be deemed to be the place or places of his residence within the meaning of the Acts relating to the stamp duties on certificates; and the declaration required to be delivered to the 5 registrar, for the purpose of obtaining his certificate, and also the certificate to be granted thereon, shall specify the place or places where the solicitor by or for whom the certificate is required carries on his business.

The declaration on applying for the registrar's certificate to be in duplicate, and one copy to be left with the Commissioners.
Do. s. 34.

46. The declaration required to be made for the purpose of 10 obtaining the registrar's certificate shall be made out and signed in duplicate, and one of such duplicates shall be delivered to and left with the registrar, and the other produced to him, and the duplicate so produced, together with the certificate granted on such declaration, shall be left with the Commissioners of Inland Revenue 15 or their proper officer on applying to have the certificate stamped, and shall be and be deemed the note in writing required by law to be delivered to the Commissioners or their officer to entitle the solicitor to a stamped certificate; and for every such certificate issued by the registrar, and the previous requisite search and 20 inquiry, there shall be paid to the registrar by such solicitor, his partner, or agent, the sum of *five shillings*.

On registrar's refusal application to be made to court.
Do. s. 35.

47. In case the registrar shall decline or neglect to issue such certificate as he is herein-before required to give, the solicitor applying for the same may, on giving six clear days notice to the 25 registrar, apply to the Lord Chancellor, who shall make such order in the matter as shall be just.

Certificate to be entered with the registrar, the Commissioners to supply particulars when stamped.
Do. s. 41.

48. For the purpose of enabling the registrar to enter upon the roll of solicitors kept by him a note or minute of the time of stamping every certificate, the Commissioners of Inland Revenue 30 shall, whenever the same shall be required after the *sixth day of February* in every year, furnish to the registrar an account of the certificates issued between the *sixth day of February* and the *fifth day of January* preceding for which during the same period the stamp duties have been paid, specifying the names and places of 35 business of the parties respectively to or for whom the same have been issued, and the dates of payment of the stamp duties; or in lieu of such account the Commissioners at their option shall return to the registrar the aforesaid duplicate declarations to which such certificates relate, with a note or memorandum on each of them 40 specifying the date of payment of the stamp duty for the certificate, and the registrar shall, upon such account being furnished, or such

duplicate declarations being returned to him as aforesaid, enter such note or minute as aforesaid; and in order that such entry may be made in respect of certificates stamped at any other time, every such last-mentioned certificate shall, within one month after payment of

5 the duty, be produced to the registrar, who shall thereupon make such entry, and signify the same by a note or memorandum upon the certificate; and every such last-mentioned certificate which shall not be so produced within the said period shall have effect only as a qualification to practise from the time when it shall be pro-
 10 duced: Provided that it shall be lawful for the Lord Chancellor at any time to make an order directing that any certificate not so produced shall have effect upon and from the time of stamping the same or any subsequent period.

49. Every certificate issued by the registrar between the *fifth*
 15 *day of January* and the *sixth day of February* in any year shall bear date on the *sixth day of January*, and shall take effect on that day for all purposes, provided it be stamped before the *sixth day of February*, and in every such case the *fifth day of January* shall, for the purpose of this Act, be deemed to be the date of the
 20 payment of the duty; but if such certificate be not so stamped it shall take effect, as regards the qualification to practise, on the day on which it is stamped; and every certificate issued at any other time shall bear date on the day on which it is issued, and, subject to the provisions herein contained relating to certificates stamped
 25 after the *fifth day of January* in any year, and not produced within a month to be entered by the registrar, shall take effect as regards such qualification on the day on which it is stamped; and every certificate shall be and continue in force from the day on which it shall take effect as aforesaid until the *fifth day of January* next
 30 following inclusive, and no longer.

50. No costs, fee, reward, or disbursement on account of or in relation to any act or proceeding done or taken by any person who acts as a solicitor without having previously obtained a stamped certificate, which shall then be in force, shall be recoverable in any
 35 action, suit, or matter by such person or any other person or persons whomsoever.

51. If any solicitor, after having at any time taken out a stamped certificate, shall for the space of one whole year from and after the expiration thereof have neglected to renew the same for the follow-
 40 ing year, the registrar shall not afterwards grant a certificate to such solicitor, except the Lord Chancellor, upon the application of the said solicitor, shall otherwise order, of which application six clear

[92.]

C

A.D. 1889.

Date and determination of certificate.

Do. s. 42.

No costs recoverable by unqualified person.
37 & 38 Vict. c. 68. s. 12.In case of neglect to obtain a stamped certificate application to be made to the court.
29 & 30 Vict. c. 84. s. 36.

A.D. 1889. — days notice in writing shall be given to the registrar, and it shall be lawful for the Lord Chancellor, when making such order, to impose on the applicant such terms and conditions as he may think fit.

Penalties.

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Solicitors
not to act
for unquali-
fied persons,
&c.

6 & 7 Vict.
c. 72. s. 32.

52. If any solicitor shall wilfully and knowingly act as agent in any action, suit, or matter for any person not duly qualified to act as a solicitor, or permit or suffer his name to be anyways made use of in any action, suit, or matter, upon the account, or for the profit of any unqualified person, or send any process to such unqualified person, or do any act thereby to enable such unqualified person to appear, act, or practise in any respect as a solicitor in any action, suit, or matter, knowing such person not to be duly qualified as aforesaid, and complaint shall be made thereof in a summary way to any Divisional Court of the High Court of Justice in Ireland, or any judge thereof, and proof made thereof upon oath to the satisfaction of such court or judge, that such solicitor hath wilfully and knowingly offended therein as aforesaid, then and in such case every such solicitor so offending may be struck off the roll, and for ever after disabled from practising as a solicitor, or may be suspended from practising as a solicitor for such time as to such court shall seem fit and proper and in that case, and upon such complaint and proof made as aforesaid, it shall and may be lawful to and for the court or judge to commit such unqualified person so acting or practising as aforesaid to prison for any term not exceeding six calendar months.

Penalty for
wrongfully
acting as a
solicitor.

29 & 30 Vict.
c. 84. s. 46.

53. Any person who acts as a solicitor without being duly qualified so to act shall be deemed guilty of a contempt of the court in which the action, suit, or matter in relation to which he so acts is brought, had, or taken, and may be punished accordingly, and shall, in addition to any other penalty or forfeiture, forfeit and pay for every such offence to the Incorporated Law Society the sum of fifty pounds, to be recovered, with full costs of suit, by action brought, with the sanction of Her Majesty's Attorney-General in the name of the Incorporated Law Society, in the High Court of Justice in Ireland.

Penalty for
wrongfully
acting as
solicitor.

37 & 38 Vict.
c. 68. s. 12.

54. Any person who wilfully and falsely pretends to be, or takes or uses any name, title, addition, or description implying that he is duly qualified to act as a solicitor, or that he is recognised by law as so qualified, shall be guilty of an offence under this Act, and be liable to a penalty not exceeding the sum of ten pounds for each offence.

Any offence under this section may be prosecuted before a court of summary jurisdiction, in manner provided by the Summary Jurisdiction Acts: Provided always, that the court of summary jurisdiction, when hearing an information or complaint under this Act, shall in the police district of Dublin metropolis, be constituted of one or more divisional justices of the said district, and elsewhere in Ireland of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions.

A.D. 1889.
Offences may be prosecuted before a court of summary jurisdiction.
38 & 39 Vict. c. 86. s. 21.

55. This Act shall not extend, or be construed to extend, to the examination, swearing, admission, or enrolment, or any rights or privileges of any persons appointed to be solicitors to the Treasury, Customs, Inland Revenue, Post Office, or any other branch of Her Majesty's Revenue, or to the solicitor to the Board of Admiralty, or to the solicitor to the War Department, or to affect the provisions of section three of the Act of the fifteenth and sixteenth years of Her Majesty's reign, chapter sixty-one, or of section two hundred and seventy-three of the Customs Consolidation Act, 1876.

Act not to extend to examination, &c. of solicitors to public departments.
29 & 30 Vict. c. 84. s. 50.

Miscellaneous Provisions.

56. All rules, regulations, certificates, notice and other documents made or issued by the Incorporated Law Society for any purpose whatever may be in writing or print, or partly in writing and partly in print, and may be signed on behalf of the society by the secretary, or by such other officer or officers of the society as may be from time to time prescribed by the council, and the production of a copy of any such rules, regulations, certificates, notice, or other documents purporting to be signed by the secretary or other officer of the society shall be *prima facie* evidence of the due making thereof.

Authentic-
ation of regu-
lations and
other docu-
ments.
40 & 41 Vict.
c. 25. s. 20.

57. All enactments referring to attorneys which are in force immediately after the commencement of this Act shall be construed as if the expression "solicitor of the Supreme Court of Judicature in Ireland" were therein substituted for the expression "attorney;" and all enactments relating to the examinations of attorneys and solicitors which are in force immediately after the coming into operation of this Act shall be construed as relating to the examinations to be held in pursuance of this Act.

Construc-
tion of enact-
ments refer-
ring to
attorneys
and examina-
tions.
Do. s. 21.

58. Where in any Act or document any provisions of the Attorney and Solicitors (Ireland) Act, 1866, which are repealed by this Act, are mentioned or referred to, such Act or document shall be read as if the provisions of this Act applicable to purposes the

Substitution
of provisions
of this Act
for repealed
provisions.

A.D. 1889. — same as or similar to those of the repealed provisions were therein mentioned or referred to instead of such repealed provisions, and were substituted for the same.

Temporary Provision and Repeal.

Temporary
provision as
to examina-
tions.

40 & 41 Vict.
c. 25. s. 22.

59. All persons who before this Act comes into operation have 5
passed a preliminary but have not passed a final examination under
the enactment hereby repealed, shall be deemed respectively to
have passed a preliminary examination under this Act, and all
persons who have passed a final examination under the said enact-
ment and regulations made thereunder, but have not been admitted, 10
shall be deemed to have passed a final examination under this Act.

Repeal of
29 & 30 Vict.
c. 84.

Do. s. 23.

60. The Attorneys and Solicitors Act (Ireland), 1866, is hereby
repealed as from the *first day of January one thousand eight*
hundred and ninety : Provided, however, that this repeal shall not
affect—

15

- (A.) Anything duly done or suffered under that Act ; or
- (B.) Any right, liability, or penalty acquired, accrued, or incurred
under that Act, or any legal proceeding or remedy in respect
of any such right, liability, or penalty ; and any such legal
proceeding and remedy may be carried on as if this Act had 20
not been passed.

FIRST SCHEDULE to which this Act refers.

A.D. 1889.

Sections 30,
31.

		£	s.	d.
5	1. Fee to be paid to the Incorporated Law Society by each person on lodgment of his petition for leave to be bound apprentice to a solicitor - - - - -	8	3	0
	2. Fee to be paid to said society by each apprentice on his application for permission to attend the final examination for admission as a solicitor - - - - -	10	0	0
10	3. And for each attendance at a preliminary or final examination after the first - - - - -	1	1	0

SECOND SCHEDULE to which this Act refers.

Form of Registrar's Certificate.

Section 42.

Pursuant to an Act passed in the Session of Parliament holden in the fifty-first and fifty-second years of the reign of Queen Victoria, intituled "The
15 Solicitors (Ireland) Act, 1889," the Incorporated Law Society, as the registrar of solicitors appointed under the said Act, hereby certify that

solicitor, whose place (or places) of business is (or are) at

hath this day delivered and left with the secretary of the said society a declaration in writing, signed by the said solicitor (or by his partner, or by his Dublin
20 agent on his behalf, as the case may be), containing his name and place or places of business, together with the sittings or term and year in or as of which he was admitted a solicitor; and the said society (as the registrar) hereby further certify that the said solicitor is duly enrolled a solicitor of the Supreme Court of Judicature in Ireland, and is entitled to practise as such solicitor upon
25 this certificate being duly stamped as required by law.

Given under the hand of the secretary of the Incorporated Law Society (as such registrar) this day of 18

} Secretary.

A.D. 1889.

THIRD SCHEDULE to which this Act refers.

Form of Annual Declaration for obtaining the Registrar's Certificate.

No.

I hereby declare, that I (*or A.B.*) was admitted a solicitor of the Court
 of in sittings or 5
 term in the year and that my (*or his*) place or places of business
 are as follows :

Dated this

18

*A.B. (or C.D. Partner
 (or Dublin Agent) of the said A.B.)* 10

To

The Registrar of Solicitors in Ireland.

Solicitors (Ireland).

A

B I L L

To amend the Law for the Regula-
 tion of the Profession of Solicitors in
 Ireland.

(Prepared and brought in by
*Mr. Macartney, Mr. Maurice Healy,
 Mr. Reynolds, Mr. O'Hea, Mr. McCarty,
 Mr. O'Doherty, and Mr. O'Neill.*)

*Ordered, by The House of Commons, to be Printed,
 22 February 1888.*

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 ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or
 HODGERS, FROES, & Co., 104, Grafton Street, Dublin.

[Under 4 oz. Price 3½d.]

[Bill 92.]

A
B I L L

TO

Enable Practising Solicitors of the High Court of Justice
to act as Justices in the County where they practise. A.D. 1889.

WHEREAS it is expedient to amend the law which declares attorneys, solicitors, and proctors in practice to be incapable of becoming or being justices of the peace for counties in which they practise and carry on the profession or business of an attorney, solicitor, or proctor :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

- 10 1. From and after the *passing of this Act*, section one of the Act of the session holden in the thirty-fourth year of Her Majesty, chapter eighteen, is hereby repealed, and any attorney, solicitor, or proctor shall be capable of becoming or being a justice of the peace for any county in England or Wales although he shall practise and carry on the profession or business of an attorney, solicitor, or proctor in such county.

Repeal of the disqualification of attorneys, solicitors, and proctors from being justices of the peace for counties.

- 20 2. For the purpose of this Act a person shall be deemed to practise and carry on his profession or business in the county in which he maintains an office or place of business ; and the word "county" shall mean and include a county of a city or town and a riding or division of a county having a separate commission of the peace.

Interpretation of "county."

3. Nothing in this Act contained shall affect coroners.

Not to affect coroners.

- 25 4. This Act may be cited as the Solicitors (Justices of the Peace) Act, 1889.

Short title.

[Bill 173.]

BILL

To enable Practising Solicitors of the High Court of Justice to act as Justices in the County where they practise.

(*Prepared and brought in by*
Mr. Maclure, Sir Albert Rolitt, and
Mr. Lawson.)

Ordered, by The House of Commons, to be Printed,
26 March 1889.

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[*Tinder 1 oz. Price 4d.*]

[Bill 173.]

Solicitors (Magistracy).

A

B I L L

To enable Practising Solicitors of the High Court of Justice to act as Justices in the County where they practise.

(Prepared and brought in by
*Mr. Maclure, Sir Albert Rollit, and
Mr. Lawson.*)

*Ordered, by The House of Commons, to be Printed,
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HODGES, FIGGIS, & Co., 104, Grafton Street, Dublin.

[Under 1 oz. Price 4d.]

[Bill 178.]

